The Union is the Message: Messenger Work and Messenger Organizing in the Same-Day Courier Sector

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Abstract

Work in the same-day courier sector is a precarious form of employment. Workers in this sector are also treated as self-employed and hired as independent contractors. The relationship with the firm for which they work, however, is hardly distinguishable from an employment relationship. Messengers are among a growing number of workers in Canada who can be labeled as disguised employees. To explore the phenomenon of disguised employment, I use a case study approach informed by critical political economic theory and a purposive approach to labour and employment law to examine work in the same-day courier sector in Toronto with a focus on a subpopulation of workers in this sector: bike messengers. I examine the causes and consequences of self-employment in the same-day courier sector, analyze messengers' work and argue that their employment status entails misclassification. In an increasingly market-mediated society we are witnessing a proliferation of unprotected work relationships with disguised employment being one manifestation of this development.

Fortunately, some unions are trying to organize workers in disguised employment relationships. In this dissertation, I also examine an attempt by the Canadian Union of Postal Workers to organize workers in Toronto's same-day courier sector. I explore the processes and implications of organizing disguised employees and examine how organizing these workers relates to and can inform the project of union renewal in Canada. Gaining employee status, however, is no guarantee of successful organizing.

The same-day courier sector is highly competitive and is dominated by small, decentralized employers. Organizing in such a sector is a formidable task. Under the collective bargaining regime, unions have to organize workers workplace by workplace. However, this is proving to be ineffective in highly competitive sectors dominated by small employers, and organizing efforts will likely only result in limited success. As I argue, unions can develop innovative strategies and tactics to organize workers. However, with the many structural obstacles unions face, these strategies and tactics can often fall short of their goals. To facilitate unionization in the same-day courier sector, the collective bargaining regime needs to be overhauled to mandate, or at least promote, multi-employer bargaining.

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Chapter One:
Introduction

Introduction

The research for this dissertation begins from the following premise: in advanced capitalist societies, work for pay is increasingly becoming subject to market forces, resulting in a proliferation of non-standard employment relationships, many of which are also precarious. Self-employment is one form of non-standard employment that is on the increase over the last few decades, and a significant amount of it is precarious (Cranford et al. 2005; Vosko and Zukewich 2006; Lewchuk et al. 2013). In quite a few circumstances, however, the relationship in which a firm pays a self-employed individual for producing a good or furnishing a service differs little from a subordinate and dependent employment relationship. Workers in such a situation can be considered to be in a disguised employment relationship; these workers are prominent among the precariously self-employed (Lowe and Schellenberg 2001). Disguised employment relationships also appear to be more common in labour-intensive and highly competitive sectors (Howely 1990; Bickerton and Warskett 2005; Kansikas 2007). This leads to a second premise explored in this dissertation: in highly competitive and labour-intensive economic sectors, there is a tendency for some firms to treat workers as if they are self-employed. By hiring workers under the legal status of an independent contractor, instead of an employee, these firms seek to reduce operating

costs and remain competitive, as well as avoid employer-related responsibilities and the possibility of workers unionizing.

Disguised employment is a social problem that needs to be addressed, and it becomes even more urgent to tackle when these employment relationships are also precarious. When attempting to address social problems surrounding work and employment, looking at what the labour movement and trade unions are or could be doing is vital. In this dissertation, I am then also interested in exploring if unions are active in organizing workers whose self-employed status may entail a misclassification. A central preoccupation of labour studies scholars in Canada over the last decade or two has been the topic of union renewal, and a significant amount of research has focused on attempts by unions to organize unorganized workers in precarious forms of employment (Tufts 1998; Cranford et al. 2006; Kumar and Schenk 2006). However, most workers who are classified as self-employed and legally considered independent contractors are prohibited from associating and engaging in collective bargaining (Fudge et al. 2002; Cranford et al. 2005; Vosko 2005 & 2010)[1]. At the same time, because their employment is often precarious, it is evident that many of these workers would benefit considerably from being able to associate and engage in collective bargaining. To acquire the rights to associate and engage in collective bargaining, workers in disguised employment relationships must contest their self-

[1] Apart from artists under the federal *Status of the Artist Act*, which covers independent contractors in the cultural sector, and specific legislation covering workers in the construction sector, employee or dependent contractor status is a precondition for workers to be able to associate and engage in collective bargaining (Macpherson 1999; Davidov 2004; Cranford et. al. 2005; Vosko 2005).

employed status and prove to a labour board that they are employees or, at least, dependent contractors (Fudge et al. 2002).

Contesting workers' employment status is a challenge, and it is one that cannot and should not be borne by individual workers alone. It will likely require collective action and institutional support. This leads to a third premise examined in this dissertation: to ensure that workers have access to the rights, benefits, and protections that they are intended to have under current labour and employment legislation, unions need to go on the offensive, organize workers in disguised employment relationships, and contest these workers' status as self-employed so that they can be classified under the more appropriate status of an employee. Access to collective bargaining is critical if precariously employed workers are going to improve the terms and conditions of their employment. Effective enforcement of employment standards is also more likely in sectors where a union presence exists (Thomas 2009).

Contesting workers' status as self-employed and proving they are employees who should have rights to associate and bargain collectively are not the only challenges that unions are facing in organizing workers in disguised employment relationships. The economic sector in which these workers are employed may also present obstacles for unions. Disguised employment relationships tend to be more common in competitive product markets. In many parts of the service sector—especially those where the producer and consumer of the service need to be in the same physical location—competition is local; however, it can be cutthroat as well. Many parts of the service

sector are also dominated by small and decentralized employers. These dynamics pose problems for unions, regardless of workers' employment status (Howely 1990; Wial 1993). Under the current collective bargaining regime in Canada and given the way in which labour boards certify bargaining units, unions have to organize workers workplace by workplace, unless employers voluntarily agree to a multi-employer or sectoral-wide bargaining unit and collective agreement (Browny and Fudge 1993; Block 2006). Organizing workplace by workplace, however, is proving to be ineffective in economic sectors dominated by small, decentralized, and highly competitive employers (Wial 1993). This leads to the fourth and final premise explored in this dissertation: in highly, but only locally, competitive sectors dominated by small employers, there is a need to regulate labour across multiple employers through sectoral or multi-employer collective agreements. To do this, however, the collective bargaining regime needs to be revamped to mandate or, at least, promote sectoral-wide bargaining.

In order to explore the notion of disguised employment and whether or not unions are active in organizing workers in these relationships, I decided to pursue a case study. In late 2008, I became involved in a research project—sponsored by the Canadian Union of Postal Workers (CUPW) and directed by Dr. Norene Pupo from York University and Dr. Andrea Noack from Ryerson University—that examined the working conditions in the same-day courier sector in Greater Toronto Area (GTA), as well as how workers in this sector felt about unionizing. Similar to research in other

Canadian cities on this sector, Pupo and Noack's research documents that these workers are in a precarious form of self-employment and that their status as self-employed is, at least, suspect. This research also reveals that the same-day courier sector in Toronto, similar to other Canadian cities, is dominated by small employers that are intensively competitive (Bickerton and Warskett 2005; Pupo and Noack 2010). With this research in its possession and with a mandate to organize workers in the same-day courier sector throughout Canada, in the fall of 2009 CUPW launched a campaign to organize the same-day courier sector in Toronto (CUPW n.d.). My involvement in this research project sparked my interest in the working conditions of bike messengers. I was particularly perplexed as to why messengers were working under the legal status of independent contractors when they seemed to me more akin to employees. With the CUPW courier organizing campaign underway at the same time that I was developing the proposal for my doctoral research, I decided to explore further the working conditions of bike messengers, as well as to examine CUPW's attempt to organize bike messengers and other workers in Toronto's same-day courier sector.

In this dissertation, I follow two interrelated lines of inquiry: first, I examine the causes and consequences of self-employment in the same-day courier sector and assess whether messengers' status as self-employed entails misclassification; and second, I explore the processes and implications of organizing workers who are deemed to be self-employed and consider how organizing these workers relates to and can inform

the project of union renewal in Canada. This dissertation is guided by the following questions: why is self-employment, specifically independent contracting, so widespread in the same-day courier sector? Are messengers in disguised employment relationships and is their employment precarious as a result? What forms of collective representation and collective bargaining might be appropriate for messengers working in the same-day courier sector? And how does organizing these workers relate to and inform union renewal?

To explore the terms and conditions of work for messengers and the CUPW organizing campaign, I use a case study approach informed by critical political economy[2] and a purposive approach to labour and employment law[3]. By using critical political economy alongside a purposive approach, I aim to: 1) explain why courier firms treat messengers as if they are self-employed and hire them under the legal status of independent contractors; 2) question the legitimacy of messengers' status as self-employed; 3) demonstrate why these work relationships should be seen as socially unacceptable; and 4) advance arguments for why messengers should instead be treated as employees, be covered by employment standards and other relevant legislation, and have the right to freedom of association and collective bargaining. With the aim of furthering social and economic justice and ensuring applicable labour and employment

[2] Critical political economy is a theoretical framework that focuses on the power relations surrounding production, distribution, and consumption of resources, including labour-power (Mosco 2009). It is a holistic, dialectical, and historical approach to understanding society from a materialist perspective (Clement 2001). Critical political economic theory is discussed further in Chapter Two.

[3] A purposive approach is based on the notion that applicable labour and employment legislation should cover workers it is designed to cover (Davidov 2002; McClelland 2012). A purposive approach is discussed further in Chapters Two and Three.

legislation is applied to those workers it is designed to cover, critical political economy and a purposive approach can enrich and inform each other.

Relatively little academic attention has been paid to the terms and conditions of bike messengers' employment. Scholars examining bike messengers have treated the terms and conditions of their employment as more of a side note. Their focus is on bike messengers' identity, culture, lifestyle, and their extra-curricular activities, such as the Cycle Messenger World Championship, alley-cat races[4], and frequent parties (Kidder 2005, 2006, 2006a, & 2009; Wehr 2006 & 2009; Fincham 2007, 2007a, & 2008). While some of these scholars discuss how messengers are hired as independent contractors, work on commission, and are subject to exploitative working conditions, none of their studies have explicitly focused on questioning the legitimacy of messengers' status as self-employed. Additionally, the existing studies have been conducted on messengers working either in the UK or USA. One article looked at injury rates in the messenger occupation in the USA; however, apart from noting that messengers are hired as independent contractors and, as a result, often lack health insurance, this study does not connect occupational injuries to messengers' status as self-employed (Dennerlin and Meeker 2002). Only one article has been published on bike messengers attempting to unionize, but is based on a campaign in the USA where organizing dynamics are considerably different than in Canada (Bossen 2012). Apart from the report by Pupo and Noack (2010), there are two other studies on the same-

[4] Alley-cat races are illegal street races in open traffic and are meant to replicate a messenger's working environment (Kidder 2006).

day courier sector in Canada (Bickerton and Warskett 2005; Courier Research Project 2005). These two studies question the legitimacy of workers' status as self-employed; however, their focus is on the working conditions for car couriers, not bike messengers, in Winnipeg.

This dissertation makes a distinctive contribution to the scholarly literature as it offers a particular focus on critiquing messengers' status as self-employed. It connects the financial, social-psychological, and physical consequences of working as a messenger to their disguised employment and the competitive structure of the same-day courier sector. Moreover, it examines the processes of organizing these workers under the Canadian collective bargaining regime and explores what organizing these workers means for union renewal. It is hoped that this dissertation can contribute in some way to the efforts made by workers who are treated as self-employed to improve the terms and conditions of their employment.

Working as a Messenger: Precarious and Disguised Employment

Every weekday morning in Toronto, about one hundred and fifty workers jump on their bicycles and crisscross the city to deliver letters, parcels, and packages to and from an array of businesses, institutions, and organizations. These workers are the bike messengers who are employed by Toronto's numerous same-day courier firms. With an emphasis on just-in-time delivery and the need to have information and other goods moved as fast as possible, the work that messengers undertake is critical to the

operation of the city's communication, transportation, and distribution networks (Taylor and Hallsworth 2000; Wehr 2006). Many messengers are bicycle enthusiasts, and they genuinely enjoy much of the content of their work; however, their terms and conditions of employment are less than ideal. Messengers are deemed to be self-employed and legally considered to be independent contractors who, because of this designation, experience working conditions that differ substantially from, and are inferior to those of, many workers in employment relationships. The reality for bike messengers living in Canada's largest city, with one of the highest costs of living, is that they earn low incomes, lack extended benefits, have little job security, and have limited control over the labour process. They are prohibited from associating and bargaining collectively, are not covered by employment standards legislation, and are subject to hazardous working conditions with a high risk of injury. As other scholars note, working in the same-day courier sector in Toronto, as in other Canadian cities, is a precarious form of employment (Bickerton and Warskett 2005: Pupo and Noack 2010).

Precarious employment is not unique to the same-day courier sector. It is a growing phenomenon in labour markets in Canada as well as in other advanced capitalist societies (Quinlan et al. 2000; Vosko 2000, 2006, & 2010; Kalleberg 2003, 2009; Standing 2011). At least twenty percent, but possibly up to forty percent, of workers in the GTA can be considered precariously employed (Lewchuk et al. 2013). Precarious employment can be defined as employment that is insecure, low-paying,

lacking extended benefits and regulatory protections, non-unionized, and marked by hazardous working conditions where workers have a high risk of occupational injury and ill-health (Quinlan et al. 2000; Vosko 2000, 2006, & 2010; Standing 2011; Lewchuk et al. 2013). If looked at historically, however, precarious employment is not an anomaly in capitalist labour markets. What has come to be described as precarious employment has tended to be the norm over the long term (Broad 2000; Cappelli 2000; Quinlan et al. 2000; Vosko 2000, 2006, & 2010; Kalleberg 2009; Lewchuk et al. 2013).

While messengers are treated as self-employed and legally considered independent contractors, the legitimacy of this classification is questionable (Bickerton and Warskett 2005; Courier Research Project 2005; Pupo and Noack 2010). As Bickerton and Warskett (2005) conclude in their study on Winnipeg's same-day courier sector, workers in this sector are disguised employees, and their misclassification as self-employed is identified as a central factor shaping the precariousness of their employment. Disguised employment can be defined as a form of paid work where workers are treated as if they are self-employed, often classified legally as independent contractors. However, the relationship with the firm that pays a worker for furnishing a good or producing a service has all the trappings of a subordinate and dependent employment relationship, and none of the benefits traditionally associated with self-employment, such as more independence, control, autonomy, and the potential to earn a higher income (Bögenhold and Staber 1990;

Stanworth and Stanworth 1995; Davidov 2002; Bickerton and Warskett 2005; Frade and Darmon 2005; ILO 2006).

Workers can end up misclassified as self-employed due either to employer ignorance or willful manipulation to reduce operating costs, skirt employment-related obligations, create a flexible workforce, and avoid unionization (Stanworth and Stanworth 1995; Middleton 1996; duRivage et al. 2003). To assess whether or not messengers' employment status as self-employed entails a misclassification, the following aspects of their employment should be examined: control over the labour process; ownership of the means of production; chance of profit or risk of loss; and integration into the firm (Davidov 2002; Fudge et al. 2002; Cranford et al. 2005; Vosko 2010). If messengers have limited autonomy in the labour process, if their ownership of tools is nominal, if they have little control over the workload and, therefore, cannot engage in entrepreneurial activities, and if they are more or less integrated into the normal operations of the firm, their status as self-employed should be, at least, suspect (Davidov 2002; Bickerton and Warskett 2005). Questionable forms of self-employment, particularly solo self-employment, are a significant issue in Canadian labour markets. Overall, solo self-employment accounts for about twelve percent of total employment (Vosko and Zukewich 2006; Industry Canada 2012; Lewchuk et al. 2013). However, some research suggests that at least twelve percent of individuals who are solo self-employed in Canada may be in disguised employment relationships (Lowe and Schellenberg 2001). As in other advanced capitalist

economies, concerns about disguised employment relationships are well-founded in Canada (OECD 2000; Davidov 2002; Bickerton and Warskett 2005; Kansikas 2007). Indeed, bodies such as the International Labour Organization (ILO) (2006) have called on member states to take action to address this problematic labour market development.

To understand the growth of precarious forms of employment and its connection with the rise in disguised employment relationships, there is a need to take into account some recent developments in the global economy. Increasing global competition has put significant pressure on employers in advanced capitalist economies to cut operating costs. One strategy has been for employers to resort to non-standard forms of employment, such as temporary work, contract work, part-time work, and solo self-employment. Global economic competition has altered the structure of many labour markets throughout the world, including in Canada (Betcherman 1996; Broad 2000; Davidov 2002). However, it is not only employers facing global competition who are resorting to non-standard forms of employment as a cost-cutting strategy: employers operating in markets that are more or less immune from global competition—such as the parts of the service sector where the producer and the consumer of the service are required to be in the same location—are using similar strategies to reduce operating costs. Resorting to non-standard forms of employment has become normalized across many economic sectors, including many parts of the service sector where competition is local (Howely 1990; de Wolff 2000).

Firms often emulate the practices of their competitors in order to stay in business. If all other firms are treating their workers as if they are self-employed and legally classifying them as independent contractors, an individual firm has little choice—let alone incentive—other than to follow suit (Howely 1990). Workers without recognized skills have few alternatives but to accept the job on offer, as the other option is often no paid work at all.

Treating workers as if they are self-employed is a strategy some firms use to reduce operating costs and remain competitive, and it is in highly competitive sectors where employers are more likely to be found operating their businesses in such a manner (Howely 1990; Herzenberg et al. 2000; Bickerton and Warskett 2005; Frade and Darmon 2005; Kansikas 2007). Same-day courier firms in Toronto, as in other Canadian cities, operate in a highly competitive market environment with firms competing primarily on costs, reducing delivery rates to attract new and retain existing clients (Bickerton and Warskett 2005; Courier Research Project 2005; Breininger 2010; Pupo and Noack 2010). Same-day courier firms are also labour-intensive operations, meaning that labour costs are the main operating cost in this sector. Same-day courier firms reduce operating costs primarily by classifying their workers as self-employed instead of as employees (Bickerton and Warskett 2005). In a sector characterized by cutthroat competition, where labour costs are the main operating expense, and with lax enforcement of existing labour and employment legislation, it is not surprising to see same-day courier firms treating workers as if they are self-

employed. However, it is unacceptable for workers to be compelled to accept employment where they do not have the rights, benefits, and protections afforded to employees. Disguised employment needs to be contested.

Organizing in the Same-Day Courier Sector

Combating disguised employment is a difficult challenge requiring collective action and institutional support. It should not and cannot be borne by individual workers alone. Organizing through unions is one of the few means through which workers in disguised employment relationships can contest their self-employed status and realize the rights, benefits, and protections that they are intended to have under existing collective bargaining and employment standards legislation.[5] Organizing workers in the current political economy, however, presents many difficulties for unions, regardless of workers' employment status. The proliferation of non-standard forms of employment, the growth of the service sector and the decline of the manufacturing sector, the restructuring of business operations, and the state's changing orientation towards employment matters have created obstacles for trade unions in their attempts to organize and represent workers (Cranford et al. 2005; Kumar and Schenk 2006).

Organizing workers who are misclassified as self-employed presents difficulties for unions, which they do not face when organizing workers who are classified as

[5] Unionization is not the only way to challenge disguised employment relationships. In the conclusion of this dissertation, I also discuss how employment standards legislation could be amended to increase the penalties for employers who deliberately misclassify workers as independent contractors instead of employees as a way to limit this employer practice.

employees. If workers, such as messengers, are treated as if they are self-employed and legally considered independent contractors, they are prohibited under the *Competition Act* from associating and engaging in collective bargaining. The first challenge for unions is proving to a labour relations board that the workers they are attempting to organize are employees, or at least dependent contractors, who should have rights to associate and engage in collective bargaining. Contesting workers' employment status and proving they are employees in front of a labour board can be a challenge, and receiving a favourable decision is by no means certain (Fudge et al. 2002; Cranford et al. 2005). Nonetheless, some unions, such as CUPW, have taken on this challenge and launched campaigns throughout Canada to organize workers who they believe are disguised employees (CUPW n.d.). Attempts by unions to organize workers in disguised employment relationships are important to study if this troublesome labour market development is to be curtailed. In examining CUPW's courier organizing campaign, I seek to explore the processes and implications of organizing *workers*[6] who are deemed to be self-employed and examine how organizing these workers relates to and can inform trade union renewal in Canada. This dissertation is, therefore, a response to calls in the literature for the need for greater knowledge to enable trade unions and allied organizations to remain viable and to

[6] "*Workers*" here refers to individuals who are dependent on their capacity to sell their labour power for their survival (Fudge et al. 2002). Based on this definition, messengers can be considered workers regardless of their legal classification as either employees or independent contractors.

increase the power of precariously employed workers (Clawson 2003; Kumar and Schenk 2006).

Unions face additional challenges in organizing disguised employees beyond contesting workers' status as self-employed and proving that they are employees with rights to associate and collective bargaining. While employee status is necessary for most workers to associate and bargain collectively, gaining the status of an employee is no guarantee of successful organizing (Cranford et al. 2005). The structure of a particular sector may also create particular challenges. Like much of the service sector, small, decentralized, and intensively competitive employers dominate the same-day courier sector (Bickerton and Warskett 2005; Pupo and Noack 2010). Organizing in the service sector dominated by small employers who are in intense competition is not an easy task, perhaps presenting even more of a challenge than contesting workers' status as self-employed and proving that they are employees. By studying the CUPW campaign, I then also aim to explore the processes and implications of organizing workers in sectors dominated by small and highly competitive employers and examine how this relates to union renewal.

Under the current structure of the collective bargaining regime in Canada and given the way in which labour relations boards tend to certify bargaining units, unions have to organize workplace by workplace, unless employers agree to a sectoral-wide bargaining unit and collective agreement (Browny and Fudge 1993; Block 2006). Organizing workplace by workplace, however, is proving to be ineffective in an

increasing number of economic sectors. The current structure of collective bargaining regime, which promotes single-employer or worksite-based bargaining, is a hindrance to organizing a growing number of workers, especially workers in the highly competitive service sector dominated by small employers. As an analysis of the CUPW organizing campaign suggests, unions can develop innovative strategies and tactics to organize workers. However, with the many structural obstacles unions currently face and the hostile environment in which organizing takes place, these strategies and tactics, despite the best intentions of unions, are often not enough. Documenting the obstacles that unions face, as well as how they can overcome these challenges, is critical to understanding the possibilities and limits of union renewal under the current collective bargaining regime. As I contend, to facilitate unionization in sectors, such as the same-day courier one, the collective bargaining regime needs to be overhauled to mandate or, at least, facilitate multi-employer or sectoral bargaining (Wial 1993; Herzenberg et al. 2000; Cranford et al. 2005).

Chapter Outline

The remainder of this dissertation unfolds in seven chapters followed by a conclusion. Chapter Two reviews the critical political economic theoretical framework, which I adopt. With a focus on power relations, I argue that critical political economy provides the most ample theoretical framework to explain work and worker organizing in capitalist societies. As part of the theoretical framework, I also discuss labour process theory. As I suggest, labour process theory is among the most comprehensive theories

within the sociology of work to explain how the dynamics of control and resistance unfold in the labour process. In this chapter, I also discuss my methodology, which combines aspects of the workers' inquiry, methods from the margins, feminist methodologies, and grounded theory. These methodologies privilege the experiences, perceptions, and understandings of research participants, and also aim to give voice to groups that are often unheard in debates and accounts of work and worker organizing. As I argue, when conducting research with marginalized groups, their experiences and voices need to be emphasized. Following the review of my methodology, I discuss the research methods I use, including observation, documentary research, and semi-structured interviewing supplemented with a questionnaire. The first-hand accounts of workers and union organizers are necessary for documenting and analyzing messengers' work and the CUPW courier organizing campaign. I argue that in-depth interviewing is the most constructive way to gather this information and data from workers and union organizers. By combining the theoretical frameworks with the methodologies and methods, I am able to document, make sense of, and develop an explanation of the same-day courier sector, messengers' working lives, as well as the CUPW campaign.

In Chapter Three, I review scholarship on employment, self-employment, and independent contracting, focusing on the literature in economics, sociology, and socio-legal studies. The rationale for reviewing this literature is to provide a background to assess the self-employed status of messengers and whether or not messengers' status

as self-employed may entail a misclassification. While the literature in economics is useful in examining some forms of self-employment, such as entrepreneurship, it is limited in explaining the situation of workers whose self-employed status is suspect. The sociological and socio-legal literature can help in identifying and analyzing the situation of workers whose self-employment may be a form of disguised employment. To this end, I also review the legal tests that state agencies use to determine employment status. Building on the literature I review, I argue that it is crucial to combat disguised employment so that workers, such as bike messengers in Toronto, can avail themselves to the rights, benefits, and protections that they are intended to have through employment standards, collective bargaining, and other relevant legislation.

Chapter Four discusses the evolution and structure of the courier sector in Canada and Toronto. This chapter is based on the following questions: why is the same-day courier sector in Toronto so competitive? And what impact does this competitiveness have on the terms and conditions of messengers' employment? To understand the working conditions of messengers and why they are treated by courier firms as self-employed, it is critical to examine the dynamics of the sector in which they work. I start by tracing the historical development of the courier and postal sectors before moving on to chart recent changes in these sectors. In analyzing their evolution and current structure, I highlight why the same-day courier sector has become so competitive. I argue that the highly competitive structure of the same-day courier

sector exerts considerable pressure on firms to operate in the same manner as all other firms, which means hiring workers under disguised employment relationships. I end this chapter with a discussion on how messengers comprehend the dynamics of this sector and how they see these dynamics impacting the terms and conditions of their employment.

In Chapter Five, I examine the terms and conditions of work for messengers in Toronto. This chapter is framed around the following questions: why is self-employment, specifically independent contracting, so widespread in the same-day courier sector? And are messengers disguised employees? I begin this chapter by looking at the labour market for messengers. I then discuss why messengers enter this occupation and move on to investigate turnover rates in this sector. The bulk of this chapter, however, is dedicated to analyzing messengers' employment status. In this context, I focus on: their mode of remuneration; control over the labour process; the extent to which they own the means of production; their relationships with the dispatcher; their ability to undertake entrepreneurial activities; and their integration into the normal operations of the courier firm. I also examine how messengers view the legitimacy of their employment status and how this has changed as a result of the CUPW campaign. The main argument in this chapter is that messengers are disguised employees. It is the substance of the work relationship and not how it is labeled or what is contractually agreed to that should be central to determining what a worker's employment status should be.

Building on the discussion in Chapter Five, in Chapter Six I ask: what are the other consequences for messengers working in the same-day courier sector and how is this related to messengers' disguised employment? In this chapter, I focus on the financial, social-psychological, and physical consequences of working as a messenger in Toronto. In terms of financial consequences, I begin by looking at the low and fluctuating income of messengers and follow this up with an examination of the unpaid work that they are pressured into performing. I then consider the skills needed to do messenger work. While messengers are skilled workers, their skills tend to be devalued, which negatively impacts how much they can demand for their services. Turning to the social-psychological consequences, I examine the stigma in the messenger occupation and explain how it becomes constructed as "dirty work." To explore the physical consequences, I examine risk taking and messenger work and follow this up with a discussion of occupational health and safety. I argue that many of these consequences stem from or are, at least, amplified by messengers' disguised employment. I conclude this chapter by illuminating some of the intrinsic rewards of messenger work. Messenger work is not all burdensome toil. Nonetheless, messengers do receive some satisfaction from their employment. The positive rewards that messengers receive, I suggest, help to make messenger work bearable.

Chapter Seven reviews how various types of unionism may or may not be applicable to organizing workers, including messengers. The point of this review is to situate the analysis of the CUPW organizing campaign presented in Chapter Eight. I

begin this chapter with a discussion of why the right to freedom of association and collective bargaining remain justifiable in our society. I then move on to examine the limitations of dominant models of unionism for a growing number of workers. Next I investigate the relevance of some historical models of unionism, as well as some emerging forms of unionism. The chapter's final section fleshes out some of the best features of the historical and emerging models of unionism as they may apply to organizing messengers. Unions, I argue, must explore different models of organizing to combat the rise in disguised employment relationships and to deal with other changes in the economy, such as the proliferation of small, decentralized employers operating in the highly competitive service sector. Multi-employer or sectoral bargaining, I contend, is critical to organizing workers in the highly competitive service sector.

Chapter Eight discusses and analyzes the CUPW courier organizing campaign. The main questions guiding this chapter are: what are the processes involved in organizing workers who are in disguised employment relationships and are also working in a highly competitive sector? And how does organizing these workers relate to and inform union renewal? I begin this chapter with a discussion on the origins and goals of the campaign. I then discuss why messengers sought to unionize. Following this, I examine the organizing process, including how CUPW conducted outreach and card signing. I also consider some of the additional outreach undertaken by CUPW to win over reluctant messengers. I then move on to analyze the impact of employer

intimidation on messengers' support for the campaign. Next, I chart some of the legal issues CUPW faced in this campaign and how CUPW had to re-organize messengers under the provincial collective bargaining regime. I then discuss the current state of the campaign and what the prospects might be for the future. I end this chapter with a discussion on what lessons could be learned from other campaigns that have organized precariously employed workers. In this chapter, I argue that changes to the collective bargaining regime are necessary to mandate or, at least, facilitate multi-employer or sectoral bargaining. Without changes to the collective bargaining regime, highly competitive economic sectors dominated by small employers, such as the same-day courier sector, will remain difficult to organize. Unions can use innovative strategies and tactics in their unionization campaigns; however, when faced with structural impediments to organizing, these strategies and tactics are often not enough.

In Chapter Nine, the conclusion, I reflect on the main findings of this dissertation and rearticulate its main arguments. I also suggest some ways in which disguised employment can be confronted and combatted, which include unionizing as well as legislative changes. Additionally, I make some observations on the importance of further researching disguised employment relationships in contemporary labour markets and suggest what direction future research in this area could take.

Chapter Two:
Theory, Methodologies, and Methods

Introduction

In this chapter I discuss the theoretical framework, methodologies, and methods that I use in this dissertation. Critical political economy, understood as historical, materialist, and dialectical theory of social life (Clement 2001), is the guiding theoretical framework for this dissertation. With its focus on the power relations encompassing the production, distribution, and consumption of resources, including labour-power (Mosco 2009), I suggest that critical political economy allows for one of the most comprehensive explanations of the realities of work, both paid and unpaid, and its changing nature. Critical political economy can also help us understand the dynamics of union organizing; with the focus on power relations, it can be used to explain why under certain conditions workers are successful in organizing, while under other conditions they are not (Shalla 2007). Critical political economy also involves critique, allowing scholars to evaluate and criticize certain social practices and relationships and advance more equitable and just alternatives (Graham 1990; Mosco 2009). This is quite important when looking at some of the recent and problematic developments in work and employment relationships, such as the rise of precarious and disguised employment, and the increasingly hostile environment in which worker organizing currently takes place. As part of the theoretical framework, I also discuss labour process theory. Labour process theory, I suggest, is particularly useful to

understanding the dynamics of employer control and worker resistance and how these unfold in the labour process.

With methodology, the concern is with the logic and assumptions underpinning social research as well as with how legitimate knowledge can be produced from the data collected. My methodology is informed by the workers' inquiry method (Marx 1928), methods from the margins (Kirby and McKenna 1989), feminist methodologies (DeVault 1996; Ramazanoglu and Holland 2002; Smith 2004 & 2005; Fonow and Cook 2005) and grounded theory (Glaser and Strauss 1967). All these methodologies privilege the experiences and standpoints of research participants. To explain work and to produce knowledge about it, the experiences of workers need to be the starting point. With these methodologies, the standpoints of research participants are used as the empirical evidence to develop theoretical knowledge (Marx 1928: Kirby and McKenna 1989; Smith 1992 & 2005).

With methods the concern is with the techniques of empirical research or how to go about gathering information and data on the social phenomena under study. For this dissertation, I use observation, documentary research, and semi-structured interviewing supplemented with a questionnaire. Interviews help us discover how social phenomena, such as work and union organizing, are experienced and how social relationships, such as those between workers and employers, are acquiesced to, contested, and sometimes also transformed (Stoecker 1991; Kvale 1996). Observation and documentary research can also help capture the social processes and relations

surrounding work, employment, and worker organizing. These methods, particularly the interviewing component, fit well with a critical political economic theoretical approach to study work, employment relationships, and worker organizing. Critical political economic studies are often based on the experiences and standpoints of workers and union organizers (Smith 1992 & 2004; Clement 2007).

As I demonstrate in this chapter, critical political economy gives us a theoretical lens to comprehend the power relations in capitalist societies and the positions of employers as well as workers within these relations. However, the power relations that critical political economy emphasizes need to be given substance, and this can be done by documenting the experiences of workers. Labour process theory is also useful to understanding power relations, particularly the dynamics of employer control and worker resistance. However, this theory also needs to be grounded in the lived experiences of workers. The methodological framework I use, which incorporates aspects of the workers' inquiry, methods from the margins, feminist methodologies, and grounded theory, stresses the importance of highlighting the experiences and voices of research participants to develop theoretical knowledge. In-depth interviewing—the main method—allows us to capture the experiences of research participants. Thus, by combining the theoretical framework with the methodologies and methods, I am able to document, make sense of, and construct an explanation of messengers' working lives based on their accounts. In a similar manner, by using this

integrative approach, I can document and theorize the dynamics of the CUPW organizing campaign based on messengers and union organizers' accounts.

Critical Political Economy

Political economy arose alongside the development of capitalist social relations and the rise of the market system for land, labour, and capital. The profound changes that the emerging capitalist economy brought about in European societies necessitated the development of a new intellectual framework to understand and explain what was occurring. While there were political economists before him, such as the Physiocrats, Adam Smith and his publication of *The Wealth of Nations* in 1776 marked a turning point for political economic theory. His aim was to develop a scientific understanding of socially organized production. Smith was the first political economist to undertake a systematic and extensive analysis of the emerging capitalist economy and the society in which it was embedded, developing a theoretical model of how a market economy and society may operate. Smith also insisted that the economy could not be understood in isolation: an analysis of the economy must be situated within an analysis of the wider social totality of which the economy is just a part. While current political economists may or may not agree with Smith's vision of a harmonious capitalist economy and society based on amicable exchange, he is, nonetheless, considered to be the founder of political economic theory (Heilbroner 1980; Clement and Williams 1989; Foley 2006).

Political economy is diverse and therefore defining political economy is not easy. Political economy is also not just a theoretical perspective; it is also an object of study. Over the course of its history and with changing social conditions, political economy has undergone transformations in terms of: how the social world is understood and explained; what aspects of the social world are seen as relevant to examine; and how to go about undertaking social inquiry and analysis. In terms of political orientations and social values, political economy is quite varied and spans from the far-right to the far-left of the spectrum (Clement and Williams 1989; Howlett and Ramesh 1992; Mosco 1996 & 2009; Sayer 2000). What follows is not meant to be a comprehensive survey of political economy. Rather, the intent of this review is to highlight how one strain of political economy—critical political economy—can be used to research and explain work, employment relationships, and worker organizing.

Despite its diversity as a theoretical perspective, political economy does have some commonalities. At a general level, Mosco suggests that political economy can be thought of as "*the study of control and survival in social life*" (2009: 25, emphasis in original). In this definition, control corresponds to the political and survival to the economic. The concept of control directs our attention towards examining the social relations of domination and subordination, the exercise of power, as well as resistance to power. The concept of control, for example, can help us explain why some groups of workers end up working as disguised employees in precarious employment relationships, as well as why they can do little to contest the terms and conditions of

employment, especially at the individual level. The concept of control can also help us explain how, under certain conditions, workers can collectively challenge their employer and win improvements in their terms and conditions of employment, while under other circumstances they cannot. The concept of survival then directs us towards examining the activities that the working class undertakes and the relationships that they form to produce their means of subsistence and ensure its reproduction, both daily and generationally. In capitalist economies, workers are compelled to sell their labour-power to an employer for a wage, and with wages, they purchase the means of subsistence necessary to survive (Picchio 1992). Because of workers' dependency on wages to secure the necessary means of subsistence, the terms and conditions under which labour-power is sold tend to be determined by employers, who can exercise their power to structure the work relationship to their advantage. This is why survival needs to be understood as operating in tandem with control. With control and survival being the entry points, political economy could be used to study almost any aspect of human activity and existence; however, with these two guiding concepts, critical political economy is particularly useful for studying work, employment relationships, and worker organizing.

Mosco also offers a narrower definition of political economy, and it is one that has particular relevance to this study: he suggests that political economy can be thought of as "*the study of social relations, particularly the power relations that mutually constitute the production, distribution, and consumption of resources*" (2009: 24,

emphasis in original). Mutual constitution should not be understood as all social relations bearing equivalent influence in every instance. Some relationships may have relatively more influence on social outcomes. Sometimes class is the more salient social relationship, while at other times and in other circumstances it may be gender, ethnicity, sexuality, or immigration status. This, however, needs to be determined through empirical investigation and not assumed beforehand. Since messengers are for the most part white men—a group which tends to be privileged in the labour market—particular attention should be paid to their subordinate position in the structure of class relationships[7] and how this positioning relates to messengers ending up in a precarious form of employment, namely working as disguised employees.

With the focus on the production, distribution, and consumption of resources—which include both commodified and non-commodified goods and services as well as labour-power—Mosco's definition points our attention towards more specific power relationships, such as the relationships surrounding work, employment, and

[7] My understanding of class is built off of the writings of Marx. Marx (1976) uses class as a conceptual entry point to understand the complex webs of relationships existing under capitalism. The class relations theorized by Marx in the capitalist mode of production centred for the most part on a dualistic class structure based on the exploitation of the proletariat by the bourgeoisie. Class relations unfold during the process "in which unpaid surplus labour is pumped out of the direct producers [which then] determines the relationship of domination and servitude" (Marx 1981: 927). Marx also recognizes internal differences in the working class in terms of labour market opportunities, wages, and the conditions under which their labour-power is bought and sold. As he comments: "this wage minimum...does not hold good for the single individual but for the *species*. Individual workers, millions of workers, do not get enough to be able to exist and reproduce themselves" (Marx 1978: 206). The precise nature of the relations of domination and servitude and the conditions under which labour-power is bought and sold vary between different fractions of the working class and the capitalist class, in different geographical spaces, and over different historical periods.

commercial activities. With a stress on power relations, critical political economy can direct us towards examining and explaining how some groups, such as employers, have the ability to exert considerable influence over other individuals, processes, and things, such as: the organization of workplaces; the terms and conditions of employment; the employment status under which workers are hired; and the ways in which goods and services are produced, distributed, and consumed. As discussed in Chapters Five and Six, because employers in the same-day courier sector can exercise considerable power, workers can be misclassified as self-employed, compelled to work for piece-rate wages that often amount to less than minimum wage, offered little or no job security, and subject to dangerous working conditions with a high risk of occupational injury.

With an eye towards examining commercial activities and the power relations surrounding these activities, critical political economy can help us explain how the precarious employment circumstances in which messengers find themselves are connected to the cutthroat competitiveness pervading the same-day courier sector. As discussed in Chapter Four, same-day courier firms continually attempt to undercut each other's delivery prices to attract new and retain existing customers. The market for same-day courier services is a buyer's market and consumers can exert considerable pressure on same-day courier firms to reduce or at least keep delivery rates low. To compete and remain in business, firms are compelled to operate in a similar manner as all other firms in the same-day courier sector, and this means hiring

workers as disguised employees. Mosco's critical political economy gives us a good starting point to understanding and explaining the disguised employment relationships in which messengers find themselves, as well as the dynamics of the CUPW courier organizing campaign.

For this dissertation, Clement and his co-authors advance another helpful formulation of critical political economic theory (Drache and Clement 1985; Clement and Williams 1989; Clement and Myles 1994; Clement 2001; Clement and Vosko 2003). According to Clement, political economy should be understood as a holistic, dialectical, and historical approach to understanding society from a materialist perspective. By asking what political economy is, Clement suggests that "for political economy, the *political* includes the comprehensive 'state' of political and civil society; that is, not only government but governance. The *economic* encompasses the social, political, and cultural constitution of markets, institutions, and actors" (2001: 406, emphasis in original). For Clement, and similar to Mosco, an understanding of power relationships is central to a critical political economic theoretical approach. Any instance in which power is exercised should be seen as political. The political in political economy is much more expansive than the political as traditionally conceived. The exercise of power is not limited to the activities of states, state agencies, or governments. Power is also exercised by institutions and actors in the cultural, social, and economic spheres. For this dissertation, power relations between employers and workers need to be one of the central concepts guiding analysis in order to understand

and explain the organization of workplaces, the terms and conditions of employment, as well as the processes through which workers attempt to challenge and transform the terms and conditions of employment. We also need to take into account the power that the state exercises as it also mediates the relationship between workers and employers or labour and capital.

Like Mosco's definition, which stresses mutual constitution, Clement's definition also highlights the need to see the political, economic, cultural, and ideological aspects of social life as intersecting. This means first and foremost rejecting the conventional institutional separation of the political and the economic into mutually exclusive realms. The economic system is organically linked to the cultural, ideological, and political realms of the social world. Indeed, the term political economy itself suggests that, at the very least, politics and economics cannot be studied in isolation. Nonetheless, this institutional separation of politics and economics is what often obscures the recognition of power relations operating in the economic sphere and by extension, the cultural, ideological, and social spheres as well. By including actors in his definition, Clement directs our attention towards the importance of human agency and the ability of humans to transform the social world around them (Drache and Clement 1985; Clement and Williams 1989; Clement and Myles 1994; Clement 2001; Clement and Vosko 2003). The collective agency of workers is particularly important to account for when examining attempts at unionizing. Along with power relations, the

concept of agency can help explain why under some conditions workers are successful and why under other conditions they are unsuccessful at unionizing.

Political economy often focuses on market processes, the formal economy, employment relationships, and activities undertaken by the state and its agencies; however, this narrowness in terms of what is seen as relevant for political economists to examine has been critiqued, especially by feminist political economists. Armstrong and Armstrong (1985 & 2003), for example, argue for a more expansive notion of political economy. In addition to what is typically considered relevant to the study of political economy, they argue that the physical, cultural, and ideological spheres of social life must be examined as well. Moreover, they stress that household processes and relationships also need to be included in political economic analysis. If household processes and relations are not included, the result is a failure to comprehend the political economy in its entirety. The additional unpaid work performed outside paid employment is crucial to examine in order to understand how the working population sustains and reproduces itself.

In a similar vein, feminist political economists also stress the importance of examining social reproduction for critical political economic theory. Social reproduction refers to the processes and social relations involved in the daily maintenance and generational reproduction of people, particularly the working class and its ability to labour. The concept of social reproduction emphasizes how working-class individuals and households must combine paid employment with unpaid labour

to maintain themselves and to reproduce their ability to work both daily and generationally (Luxton 2006). In much political economic theory, the labour involved in social reproduction is often rendered invisible. This concept, however, is necessary to understand the maintenance and reproduction of the working class in capitalist societies (Picchio 1992; Fudge and Cossman 2002; Vosko 2002; Bakker and Gill 2003; Luxton 2006; Thomas 2009). While this dissertation does not devote considerable attention to the processes of social reproduction, the concept of social reproduction can be used as an entry point to help account for the survival strategies that some messengers undertake as low-income workers.

Another useful way to understand critical political economy is to highlight some of its central characteristics and examine how these characteristics inform the way in which an inquiry is undertaken. Again, the work of Mosco (1996 & 2009) is a useful starting point. He suggests there are four guiding ideas at the centre of critical political economy. These are: social change and history; the social totality; moral philosophy; and social praxis.

Critical political economy has maintained a strong commitment to understanding social change and undertaking historically-informed research. When examining social change from a critical political economic perspective, stress is often placed on examining the contradictions in society. Contradictions create the opportunities for resistance to emerge, such as unionization attempts, which are the precursors for social transformation. Contradictions can be understood as the inconsistences, tensions,

negations, and conflicts that manifest themselves in social processes and social relationships. Understanding how contradictions can lead to social transformation requires dialectical thinking. Dialectical thinking deflects our attention away from seeing social change in a simple cause-effect manner and instead points our attention towards seeing social transformation as a result of multiple, intersecting causes; it pushes us to see the social world in terms of the mutual constitution of the political, economic, cultural, material and ideological. Dialectical thinking can also help us avoid the pitfalls of economism—attributing social change to the supposed iron laws of capitalism—as well as other forms of deterministic thinking (Bukharin 1969; Resnick and Wolff 1982; Clement and Williams 1989; Mosco 2009).

When discussing social change, human agency needs to be foregrounded. Agency refers both to the capacity or potential to act and to the conscious actions that humans actually undertake. The concept of agency is essential to explaining how social change and transformation occur. Individuals experience the pain and misery that can result from the current structure of social relations. They can also imagine a better world. Under certain circumstances people have the potential to move beyond current social relations and construct a better world. Organizing by workers is one example of how agency can work to transform the social world. The concept of agency also reminds us that social outcomes, while contingent on past events, are not predetermined. History remains open-ended; but it is always conditioned by the circumstances and social relations in which people already exist (Marx 1973; Clement and Myles 1989; Graham

1990; Shalla 2007). By examining the social relations in which messengers exist and how these relations may facilitate or limit their ability to exert agency, we can, for example, explain the limited success of the CUPW courier organizing campaign, despite the innovative tactics and strategies that the union used to organize workers.

A historically informed analysis is necessary for social research; without it there is a tendency to see current social relationships as natural or inevitable. Social relationships are historical relationships, and a historically informed analysis can help us trace how social relationships develop. Tracing the historical development of social relationships can also give us insight into how these relationships might be challenged and transformed in the future (Hobsbawm 1968). A historically informed analysis also helps to distinguish between what are fundamentally new and unprecedented social phenomena and those that are recurring or similar phenomena from the past (Silver 2003; Webster et al. 2008). A historically-informed analysis is particularly important when examining work and employment, especially with the resurgence of precarious forms of employment and the rise of disguised employment relationships. When looked at historically, the precarious employment conditions in which workers, such as messengers, find themselves are not some aberration in capitalist labour markets: rather, what is labeled as precarious employment has tended to be the norm over the long term in capitalist labour markets (Cappelli 2000; Quinlan et al. 2000; Vosko 2002 & 2010). Finally, a historically informed analysis can also help us theorize how historical forms of worker organizing, such as craft, occupational, and metropolitan

unionism, may again be relevant to challenge the resurgence of precarious employment and the rise of disguised employment relationships (Cobble and Vosko 2000; Cranford et al. 2005).

Most critical political economists subscribe to the notion that, regardless of the particular social phenomenon being studied, it should be situated within the larger social totality. Analyzing the social totality means that the social world should be seen as an integrated whole consisting of many contradictory processes and relations, such as political, cultural, ideological, and economic ones. Together, these contradictory processes and relations constitute the larger social totality. No aspect of the social world can be studied in isolation if it is to be understood comprehensively (Clement and Williams 1989; Mosco 2009). As Marx suggests, the social world needs to be seen as a "rich totality of many determinations and relations" (1973: 100). By being cognizant of the larger social totality and by using the idea of mutual constitution, critical political economy can also help us avoid the pitfalls of economism—that is, seeing the economy as the essence of society—and instead directs our attention to understanding the interconnections among the political, economic, material, cultural, and ideological moments of social life. No social process or social relationship should be privileged *a priori* as determining social outcomes. Ultimately, a non-deterministic and non-essentialist theoretical approach leads to more nuanced and comprehensive analyses (Clement and Williams 1989; Graham 1990; Mosco 2009).

It is necessary to trace the interconnections among the political, economic, material, cultural, and ideological aspects of social life in order to explain the situation in which workers, such as messengers, find themselves as well as unionization attempts, such as the CUPW courier organizing campaign. For example, the political can be used to help explain why messengers end up working in disguised employment relationships. The lack of political will to enforce employment standards is one reason why messengers can be easily misclassified as self-employed and hired under the legal status of independent contractors. The political can also help to explain why messengers face many difficulties in organizing. The state, through establishing the legal environment in which organizing takes place, can place one party, usually the employer, in a more advantageous position. Union organizing does not occur on a level playing field. The economic can help us to explain why same-day courier firms tend to misclassify messengers as self-employed, which can be attributed to the highly competitive nature of the same-day courier sector. By examining the material, we can account for the damage done to the bodies of messengers as a result of the strenuous nature of the job and the hazardous physical environment in which they work. By examining the cultural realm, we can explain how the popular image of the bike messenger influences some messengers to enter this occupation, despite most being aware beforehand that employment as a messenger is precarious. Looking to the ideological, we can explain how the messenger occupation becomes constructed as "dirty work" and how messengers become constructed as "dirty workers." Examining

ideological processes can also help us explain how messengers' consent is secured to perform significant amounts of unpaid work as a condition of their employment. Accordingly, to understand messengers' work and the CUPW organizing campaign, the political, economic, material, cultural, and ideological aspects of social life, as well as their intersections, need to be taken into account.

Moral philosophy, or ethics, is also central to critical political economy. The focus of moral philosophy is on how we live our lives and interact with and treat others. Moral philosophy is concerned with evaluating the appropriateness of social practices and social relationships, as well as the values underpinning these practices and relationships. For early political economists, identifying morally or ethically appropriate ways of living was essential to their overall analysis of social, economic, and political life; however, with the fragmenting of political economy into the respective studies of economics and politics, moral or ethical concerns are absent in much economic thought. Critical political economy, however, retains this moral or ethical component (Mosco 1996 & 2009; Sayer 2000). Whether or not it is recognized, making judgments based on one's values is unavoidable in social research. Social researchers are embedded in the society that they are researching. A disinterested outsider's perspective is not possible. By being a member of the society, social researchers are also bound up with the fate of their society, and thus have an interest in its current state as well as its future development (Heilbroner 1974 & 1984).

By explicitly incorporating a moral or ethical viewpoint into social research, critical political economists can also ask questions such as: what is the purpose of economic activities? How should wealth be distributed in society? What are legitimate and illegitimate business practices? How should labour markets be regulated? What sort of protections should be afforded to workers? What are permissible ways to treat workers? And what rights should workers have? Political economists, however, should be explicit about the values that they hold and how their values inform their research projects and theoretical analysis (Heilbroner 1973; Clement and Vosko 2003). My values include: that economic activity should be directed towards meeting the needs of humans instead of prioritizing profits; that workers should be treated with dignity and respect, be able to earn a decent income, be able to work in a safe environment, have financial security, and also be able to find meaning in and fulfillment from their work; that markets, particularly labour markets, should be regulated so that no party can exercise disproportionate power over others; that existing labour law and employment standards legislation need to be enforced to cover workers whom they are meant to cover; and that workers should have the right to associate and bargain collectively to protect themselves and to advance their collective interests further.

Social praxis is another central feature of the critical political economic theoretical tradition, and it is closely related to moral philosophy. Praxis refers to the unity of thinking and doing or, in the academic context, the combination of social research and social advocacy. The partitioning of social research and social advocacy is artificial

and needs to be transcended (Mosco 2009). Knowledge should not be developed as an end in and of itself. Rather, knowledge should be used to help in realizing progressive social change. With this notion of praxis, critical political economy does not presume to be a non-partisan or value-free theoretical perspective. Critical political economy can be understood as a theoretical perspective oriented towards the realization of progressive social transformation. The Canadian critical political economy tradition has maintained a strong commitment to praxis, which can be seen in its emphasis on advancing social and economic justice in many aspects of society, including work and employment relationships (Clement and Vosko 2003). In our current times, there is no shortage of social issues and problems in the world of work and employment for political economists to help publicize through research and help remedy through advocacy.

With an emphasis on historically informed research and examining the processes of social change, critical political economy is particularly useful in analyzing the transformations that have occurred in work and employment relationships, especially the growing phenomenon of precarious employment and the rise in disguised employment relationships. Historically informed research also helps with understanding how different forms of worker organizing may become more or less relevant in different circumstances. Situating work and employment within the larger social totality helps us make sense of the multitude of forces impacting work and employment relationships, including—but not limited to—economic ones. Making

ethical or moral judgments about the world of work and employment are also necessary in these neoliberal times. There are many unscrupulous employer and state practices occurring that need to be challenged and transformed; social praxis, the fourth feature of critical political economy, can help in this endeavour of realizing social transformation.

Labour Process Theory

While political economy is the overarching theoretical approach used in this dissertation, labour process theory is a useful supplement to understanding the organization of work under capitalist social relations of production. Labour process theory investigates the methods used by employers to direct or control the labour process in order to ensure profitable production. This includes examining how workers are supervised, evaluated, rewarded, and disciplined by employers for their performance and behaviour at work. Labour process theory is also helpful to analyze how workers exert agency and resist the control that employers exercise over them (Braverman 1975; Marx 1976; Burawoy 1979; Edwards 1979). Labour process theory stems from the work of Marx (1976). For Marx, the general labour process consists of three elements: purposeful and focused activity; the material on which the work is performed; and the tools and technologies used to perform that work. Engaging in the labour process is a necessary human activity imposed by nature and is common to all forms of society. The labour process is a corporeal activity where both physical and

mental abilities are set into motion to produce use-values or the goods and services necessary to sustain and promote human life. The labour process can be a creative, enjoyable, and life-affirming activity with workers controlling and directing it; however, under certain social relations of production, this is not always the case (Marx and Engels 1970; Marx 1976).

With the profit motive embedded in the capitalist economic system, the capitalist labour process diverges from the general form of the labour process. The capitalist labour process needs to be organized in a manner that ensures profitable production, which in turn necessitates some form of control being exercised by employers over workers. The capitalist labour process is organized in such a way that it becomes a force that dominates those who work, instead of workers controlling and directing their own work (Braverman 1975). To understand how profit is generated in the capitalist labour process, there is first a need to understand what labour-power becomes under capitalist social relations of production. With capitalist social relations of production, labour-power is treated as if it was a commodity, and it is bought and sold as such. Labour-power, however, is a distinctive commodity. When it is expended in the labour process, labour-power can produce value that exceeds what it takes to produce and reproduce this commodity. Labour-power is the source of surplus value or profit. All commodities other than labour-power merely transfer their value into the new commodity being produced (Marx 1976).

To understand why some sort of employer control becomes necessary to ensure profitable production, one needs to understand how labour-power differs from concrete labour. Labour-power is only the capacity to labour. Labour-power becomes concrete labour when it is set in motion (Marx 1976). Employers must turn labour-power into concrete labour under conditions that permit for profit-making or the accumulation of capital, and this necessitates employers exercising some form of control over the labour process. Control, however, is inherently unstable, since workers retain the capacity to resist. The degree of control being exercised by employers and the amount of resistance put up by workers rests on the relative power that employers and workers can exercise (Edwards 1979).

While labour-power is treated as a commodity under capitalist social relations, its commodity status is, in reality, fictitious. According to Polanyi (1957), a commodity should be empirically defined as goods or services that are produced to sell in markets. Labour-power, he suggests, does not fit with this definition. People's ability to labour is not manufactured in the same way as other commodities. As he comments, labour-power "is only another name for human activity which goes with life itself, which in turn is not produced for sale but for entirely different reasons, nor can that activity be detached from the rest of life, be stored or mobilized" (Polanyi 1957: 72). Despite labour-power being a fictitious commodity, its status as a commodity is a central organizing principle for capitalist labour markets. The commodity status of labour-power is "a powerful fiction" (Peck 1994: 4). Analytically, it might make sense to

think of labour-power as a commodity, but treating it as such also carries certain implications. Among other things, the commodification of labour-power suggests that people's ability to work is diminished as just another factor of production (Mosco 2009). Ultimately, labour-power cannot be indiscriminately bought, sold, and used without regard to the bearers of it. This is why we often find workers resisting the terms and conditions under which their labour-power is bought and sold and how their labour-power is put to use. Worker resistance can become more acute when there is a heightened commodification of labour-power (Silver 2003), such as is the case with workers in disguised employment relationships, where none of the protections afforded to employees to partially decommodify their labour-power apply.

At a basic level, control in the labour process can be thought of as the ability for employers to secure desired performance from workers (Edwards 1979). Control can be exercised in numerous ways. Employers, for example, can use the payment system as a means to exercise general control over workers in the labour process. As discussed in Chapters Five and Six, most messengers are paid a commission or a piece-rate wage for each delivery they make. With a piece rate, the harder a worker works and the more tasks that he or she completes, the more income that worker can earn. With the piece-rate pay structure, it is in a worker's interest to operate in the most efficient and productive manner and complete as many tasks as possible (Braverman 1975; Marx 1976). With a piece-rate pay system, direct control over workers in the labour process becomes somewhat superfluous (Herzenberg et al.

2000). However, a piece-rate pay system does not preclude employers exercising more direct forms of control (Braverman 1975). As discussed in Chapter Five, some messengers have a significant degree of autonomy in the labour process, while other messengers are subject to a more direct form of control over their labour process (Friedman 1977).

Rather than asking how employers exercise control over workers, another way to examine the labour process is to determine how worker consent can be secured. By looking at how consent is secured, it can help to explain why workers, such as messengers, work as hard as they do and behave in a certain way at work. Burawoy (1979), for example, argues that workers cannot be controlled either through brute or refined means. Rather, they must be persuaded to comply with management. This requires that workers' interests be coordinated with those of the employer. Burawoy deploys the notion of games to explain how the interests of employers and workers can become coordinated. Games permit workers to secure some control over the labour process and allow some reprieve from its most deadening aspects. Management often becomes active in facilitating or, at least, does little to dissuade workers from engaging in these games, so long as these games do not interfere with profitable production. By participating in these games, workers also end up legitimating and consenting to the rules of the game and, ultimately, to capitalist social relations of production. The labour process can then be structured to induce worker consent as opposed to provoking resistance (Burawoy 1979).

As discussed in Chapter Six, messengers do engage in games similar to those that Burawoy examined in his study. Messengers, for example, challenge themselves to see how quickly they can ride their bike across a long distance to make a delivery. Messengers may also take risks—such a running through red lights or riding down the middle of the street—to make speedy deliveries. For messengers, engaging in these games allows them to develop pride in what they do, as well as gain prestige within the occupational community. It lessens boredom and makes the workday more enjoyable or, at least, more tolerable. Completing deliveries as quickly as possible also allows messengers to maximize their income and prove to the management of the courier firm and their co-workers that they are competent messengers (Burawoy 1979; Kidder 2011). Management at same-day courier firms may not be actively facilitating these games, but they do not dissuade them. Ultimately, it is the same-day courier firms that are the primary beneficiaries of messengers engaging in such games, which ensure quick deliveries and profitable production for same-day courier firms (Burawoy 1979).

The games in which messengers engage at work should also be understood as exhibiting a certain form of masculinity. Displaying strength and control over machinery and being able to overcome dangerous situations are social attributes generally associated with being a man. A worker's gender, therefore, needs to be taken into account to explain his or her behaviour at work and how he or she becomes seen as a competent and productive worker. The vast majority of bike messengers are men, and the structure of these games cannot be understood in absence of the predominant

gender of the messenger workforce. The job of being a messenger, to be sure, is defined in gender terms as a man's occupation (Davies 1990; Lee 1998; Caraway 2007). Having discussed the theoretical perspectives used in this dissertation, I now turn to methodologies.

Methodologies

To undertake research on work, employment, worker organizing or anything else in the social world requires that we think about methodology. The main concerns of methodology are: the logic and assumptions that guide the social research; how information and data are transformed into evidence and then knowledge; and to what ends knowledge is used. Methodology can be thought of as a route through which a researcher makes sense of the information and data that he or she collects. Different methodologies produce different types of substantive knowledge. The appropriateness of a methodology depends upon what is being researched, the questions being asked, and the goals of the researcher (McCall 2005; Clement 2007). The study of work, employment, and worker organizing from a critical political economic perspective is often based on methodologies that privilege the experiences of workers and union organizers as sources of information (Clement 2007). This methodological conviction is central to this dissertation. The researchers, by asking questions, and the research participants, by answering these questions, become co-producers of the information, as well as of the knowledge, which is eventually generated. By situating research

participants as co-producers, they become subjects and agents of the study and not as objects of the study (Kirby and McKenna 1989).

The methodology that I use in this dissertation derives from four sources: the workers' inquiry method (Marx 1938; Brophy 2011), methods from the margins (Kirby and McKenna 1989), feminist methodologies (Hartstock 1987; DeVault 1996; Bromley 2012), and grounded theory (Glaser and Straus 1967; Keddy et al. 1996). In line with a critical political economic theoretical approach to the study of work and employment, all four methodologies stress that information should be gathered directly from the individuals who have experienced what the researcher is studying. What is studied is, therefore, examined from the standpoint of the research participants (Smith 1992 & 2004; Clement 2007), and for this dissertation, it is the standpoints of messengers and CUPW organizers. Because of the immediacy of their experiences, messengers have the most intricate understanding of the working conditions in the same-day courier sector. Likewise, union organizers and active members have the most intricate understanding of the dynamics of the CUPW courier organizing campaign. Individuals can aptly discuss their experiences because they think about and reflect on what is occurring in the social world around them (Marx 1938; Smith 1977; Keddy et al. 1996).

Privileging the experience of workers is also based on taking a certain political and moral or ethical stance. The voices of workers—especially precariously employed workers such as messengers—are often missing in debates on work and employment,

despite the fact that it is these workers who bear the brunt of the effects of the current social organization of work. The voices of employers and experts are often privileged and seen as authoritative in matters concerning work and employment. Unions and other organizations representing the interests of workers tend to be heard less often than those representing the interests of businesses and the state. Even in the academic realm, the managerial or business perspectives on work and employment have become dominant, while more critical voices promoting the interests and rights of workers and organized labour are often overlooked or taken less seriously. Privileging the experiences and voices of workers and union organizers allows for a counter-narrative of work, employment, and union activities to emerge, one that differs substantially from the views offered through pro-business discourses (Smith 2005; Shalla 2007). To understand how messengers experience their working lives it is necessary to speak with them and document their accounts.

As its name suggests, the workers' inquiry is a worker-focused type of methodology. A central aim of the workers' inquiry is to produce a counter-knowledge rooted in workers' subjective experiences and understandings of their social reality. Because of their position in capitalist social relations of production, workers' experiences and accounts are critical to exposing oppression, injustice, and exploitation in the world of work. As Marx suggests, workers "alone can describe with full knowledge the misfortunes from which they suffer, and that only they, and not saviors sent by providence, can energetically apply the healing remedies for the social

ills to which they are prey" (1938: paragraph 1). Talking with workers instead of employers about work and employment produces a different type of substantive knowledge. The knowledge produced through the workers' inquiry, while valid, is still partisan knowledge. Nevertheless, producing partisan knowledge from the standpoint of workers is based on the assumption that neutral, objective, or value-free representations and explanations of social reality—while a hallmark of the scientific tradition—are in reality impossible. Partisan knowledge can also been seen as practical or pragmatic knowledge that can enable workers, such as messengers, to do something about their working conditions. In addition to exposing and producing knowledge on the injustices and exploitation that workers face, another aim of the workers' inquiry is to produce knowledge on worker agency and resistance, both collective and individual. Knowledge needs to be produced on how the terms and conditions of employment can be challenged and transformed by workers, their organizations, and allies (Marx 1938; Romano and Stone 1947; Brophy 2008).

The workers' inquiry complements a critical political economic theoretical approach to the study of work, employment, and unionizing. The workers' inquiry aims at uncovering the power relationship between employers and workers, the injustices that workers face, and how these power relationships and injustices can be challenged (Marx 1938). Critical political economic inquiries into work, employment, and worker organizing share many of these goals (Shalla 2007). A purposive approach to labour and employment law is also compatible with the workers' inquiry. One of the

aims of a purposive approach is to identify and rectify the situations in which workers have been misclassified by their employers as self-employed. In other words, a purposive approach aims to identify the situations in which employers cheat their workers out of such things as minimum wages and holiday and vacation pay by treating them as self-employed (Davidov 2002). One of the explicit purposes of the workers' inquiry is also to discover the various ways in which employers cheat their workers (Marx 1938). Along with critical political economy, the workers' inquiry and a purposive approach can be used to analyze the working conditions of messengers in Toronto's same-day courier sector, uncover many of the injustices these workers face, and critique and challenge the practices of employers who hire workers as disguised employees in this sector.

Methods from the margins, as developed by Kirby and McKenna (1989), can be used to supplement the methodological underpinnings of the workers' inquiry. Methods from the margins developed out feminist critiques of traditional social science research methodology, especially the critique that knowledge developed through social research is often used as a tool to maintain relations of domination and subordination. Methods from the margins, as the name suggests, is a methodology for doing research with individuals who are marginalized. Messengers in Toronto are an example of a group of workers who are marginalized in the labour market. As Kirby and McKenna contend, "research must begin to reflect the experience and concerns of people who have traditionally been marginalized by the research process and what gets

counted as knowledge" (1989: 22). With this methodology, the experiences of research participants are understood to be valid sources of information and data from which to build theoretical knowledge. People on the margins and those who are not on the margins experience and live in quite dissimilar social worlds; it is often the more privileged strata of the population whose voices are heard and whose experiences get counted as authoritative representations of social reality. Methods from the margins is about creating knowledge on social conditions and relationships that are often unseen or ignored, as well as providing a space for the voices of marginalized individuals who are often unheard or ignored. Messengers are marginalized workers who rarely have their voices heard in debates about work and employment. Their voices need to be emphasized and using methods from the margins can help to realize this goal.

In addition to using the feminist-oriented methods from the margins, I also draw on some other features associated with feminist research methodologies. Feminist methodologies are diverse; however, there are also some commonalities. One of the goals of most social researchers using feminist methodologies is to uncover the social reality and experiences of marginalized groups whose realities and experiences are often disregarded in social research. In other words, the aim of feminist methodologies—similar to that of the workers' inquiry and methods from the margins—is to give voice to those who are often left unheard or are silenced. In line with the other methodologies used in this dissertation, feminist methodologies also aim to promote social change through research and publicizing research results.

Challenging the status quo is often the starting point, rationale, and motivation for conducting a study. Feminist methodologies are closely linked with activism, and a central aim of most feminist methodologies is to expose as well as to challenge social inequality (Hartstock 1987; DeVault 1996; Ramazanoglu and Holland 2002; Fonow and Cook 2005; Smith 2005).

Scholars using feminist methodologies generally do not see their research projects as value-free or objective accounts of social reality. Feminist methodologies promote taking a standpoint: the standpoint of research participants. With feminist methodologies, there is no one correct way to represent social reality definitively. A researcher produces a reconstruction of social reality, not a one-to-one reflection of it (Smith 1992 & 2004; Eichler 1997; Fanow and Cook 2005). With feminist methodologies, the research methods used are most often qualitative ones, but quantitative methods can also be employed. Feminist researchers using quantitative methods combine statistical analysis with a feminist perspective to make some generalizations about women and other marginalized groups (DeVault 1996; Bromley 2012). Qualitative methods tend to be favoured, however, when there is little previous research done on a topic. Qualitative methods also tend to be favoured because it also allows for direct interaction with research participants and can better capture their lived experiences. Qualitative research thus permits the voices of research participants to be heard (DeVault 1996; Eichler 1997; Fanow and Cook 2005; Bromley 2012).

Gender is a key analytical category for those working with feminist methodologies. While feminist researchers tend to focuses on women, feminist methodologies are not, however, limited to researching the social reality and lived experiences of women. The emphasis is on gender, and gender should not be considered a synonym for women (Smith 2005; Caraway 2007). Feminist methodologies can be used to do research with other groups who are marginalized, such as precariously employed bike messengers in disguised employment relationships (Kirby and McKenna 1989; Schrock and Schwalbe 2009; Bromley 2012). Feminist methodologies also stress intersectional theorizing and the importance of considering the social location of the research participants (McCall 2005; Cranford and Vosko 2006; Davis 2008). Many scholars whose research is grounded in feminist methodologies understand race, gender, class, ethnicity, sexuality, immigration status, (dis)ability, and other social markers as mutually constituting each other. Social location is a valuable concept to understand the situation of workers who find themselves in precarious forms of employment and disguised employment relationships. The concept of social location can also be used to understand how these social markers link with political economic conditions to shape individuals' life circumstances and their ability to exert agency and resist. The concept of social location tends to be used to examine groups in the labour market who have traditionally been marginalized, such as women workers, workers of colour, immigrant workers, and undocumented workers (Cranford and Vosko 2006; Das Gupta 2006;

Tompa et al. 2006). However, the concept of social location can also be used to examine how and why some white men also end up in precarious forms of employment. Feminist methodologies can, therefore, be used to examine many forms of oppression and exploitation, including, but no limited to those experienced by women and other traditionally marginalized groups (Bromley 2012).

Grounded theory also informs the methodology for this dissertation. Grounded theory is an inductive methodological approach to generating knowledge through analyzing research results rather than beginning with theory and applying it to empirical observations. Testing theory with the information and data collected, while important for the further development and refinement of knowledge, is not the central goal of this methodology. Stress is placed on generating new insights. However, previously developed theories are not discarded and new theories are not made up on a whim; *a priori* assumptions about the social world are also not absent from this methodology either. The point of grounded theory methodology is that theory cannot be forced upon the data and information collected if it does not fit. Theory should emerge from the information and data collected (Glaser and Strauss 1967). Like feminist methodologies, methods from the margins, and the workers' inquiry, grounded theory produces knowledge based on the experiences and standpoints of the research participants. With this methodology, research participants, again, are understood as being experts and authorities on their own experiences (Smith 1992 & 2004; Wuest 1995; Keddy et al. 1996).

Since this dissertation is a case study, there are also some underlying methodological principles pertinent to case studies that need to be addressed. A case study can be understood as an empirical inquiry that investigates contemporary social phenomena in a real-life context, most often through qualitative methods (Yin 2003). The case study approach relies heavily on the experiences of the research participants to generate knowledge. The case study is also one of the few tools that social researchers have that can be used to give voice to marginalized populations (Stake 1978; Sjoberg et al. 1991). The goal of case study research is not to enumerate frequencies or to make predictions; rather, the point is to document, interpret, and explain the social phenomenon or phenomena under study. The type of substantive knowledge produced through case study research tends to be more concrete or context-dependent knowledge; in the study of human affairs, such knowledge may be of more value than knowledge produced through quantitative research methods, particularly for helping to improve workers' terms and conditions of employment and to facilitate worker organizing (Orum et al. 1992; Ragin 2002; Flyvbjerg 2007).

Methods

The three methods used in this dissertation are: documentary research; observation; and semi-structured interviewing supplemented with a questionnaire. The documentary research consisted of searching for and conducting a qualitative content analysis on relevant newspaper and magazine articles, books, websites, pamphlets, posters,

reports, and any other electronic or printed documents on bike messenger work, the same-day courier sector, and the CUPW courier organizing drive. Documents are all around us and are a form of data already in existence. Using these for social research is non-obtrusive. The vast majority of documents I examined for this dissertation are publically available documents, and are, therefore, already part of the public record. By analyzing the contents of documents, a researcher can reconstruct aspects of the social phenomena under study. However, documents are produced without any involvement of the researcher and for purposes other than for what the researcher might use them. As a result, documents need to be understood in reference to the standpoints of the creators of the documents and their purposes for producing these. Documents should not be considered objective accounts of the social world. The validity of documents may be a cause for concern. Documents tend to be partial accounts and may omit discussion of certain topics or issues and stress other ones. However, even biased information or a partial account is not useless. Documents are valuable because they can provide clues as to what the creators of documents see as important information to convey. Documents, in this sense, can be thought of as perspectives on the social phenomenon or phenomena under study (McCulloch 2004).

The observation component of the research involved spending two afternoons a week from March 2011 to August 2011 at the CUPW Courier Worker Centre in downtown Toronto. The Centre was also the campaign headquarters for the organizing campaign. My presence at the Centre permitted the campaign coordinator, Mark, to

spend time away from the office, allowing him to go out into the streets of downtown Toronto and conduct outreach with messengers. While I was there, I provided information on why CUPW was organizing the sector and on what employment-related services CUPW was offering through the Centre to individuals who came in and asked. With messengers who came in and were already familiar with the Centre and the organizing campaign—the vast majority of them—I informally chatted about their work, the organizing campaign, as well as life more generally. I also attended a few workshops held at the Centre, such as a workshop on taxes for messengers where information was provided on how to file taxes as an independent contractor. The Worker Centre was a space where messengers could stop to have a cup of coffee, fill up their water bottles, warm up on cold days, and dry themselves and use the dryer on rainy days. The Worker Centre was an opportune location to meet workers in the same-day courier sector, and when I was there I attempted to recruit messengers who came into the Centre as research participants. When I met potential research participants, I emphasized that I was a researcher who had no formal affiliation with CUPW. Since the Centre was a convenient location for messengers—downtown Toronto on Queen Street East—most of the interviews were conducted there. Other interviews were conducted in parks, bars, and coffee shops around the city. As part of the observation component of this research, I also attended a fundraiser alley-cat race,[8]

[8] Alley-cat races are street races in open traffic and are meant to replicate a messenger's working environment. Alley-cat races test bicycle messengers' navigational skills, speed, and agility on the streets where they work. These races originated in Toronto and have spread throughout the world. In

as well as an after-party for the Bike Messengers Emergency Fund. These events proved to be valuable opportunities to make connections with messengers and attempt to recruit them as research participants.

For this study, twenty-six semi-structured interviews were conducted: nineteen interviews with bike messengers; two interviews with walking messengers; two interviews with former bike messengers who exited the occupation due to workplace injuries; and three interviews with CUPW organizers and staff. Two follow-up interviews were conducted with the main campaign organizer. All messengers were also asked to fill out a questionnaire that focused on their employment status. In terms of demographics of the research participants, two campaign organizers were white men in their late thirties and the other was a white man in his early sixties. Four of the messengers that I interviewed were women, and the remainder were men; six of the research participants were workers of colour, including one female worker of colour. Research participants ranged in age from their late teenage years to early sixties, but most were in their twenties and early thirties (see Appendix A for list of research participants). At the start of the interview, all research participants were asked to sign a consent form, which also contained information describing the goals of the research project (see Appendix B). Interviews were audio recorded and then transcribed immediately afterwards. All bike messengers have also been given pseudonyms to protect their identity. CUPW staff and organizers are referred to by their first names.

most major cities in North America with a substantial bike messenger population, messengers organize these races. These races also attract messengers from other cities (Abbate 1998).

The courier firms discussed in Chapter Eight are also the real names of the firms, as the organizing drives at these workplaces are already part of the public record.

The sampling procedures for this research combined snowball, convenience, and purposive sampling. All these sampling methods are non-random sampling strategies. Snowball sampling involves asking research participants if they know other people who might be interested in becoming a research participant. Snowball sampling is a strategy to use when researching a hard-to-reach or seldom heard population. Precariously employed workers in the same-day courier sector are an example of such a population. Workers, such as messengers, do not appear in any sort of directory from which to generate a random sample. While it may be possible to generate a random sample for some workers, such as professionals, workers in the same-day courier sector are not a known population. Snowball sampling helps a researcher recruit individuals who are not highly visible (Faugier and Sargent 1997; Atkinson and Flint 2001). Convenience sampling is often derided as a substandard, non-rigorous sampling method, and there is also sometimes the implicit suggestion that researchers who use convenience sampling are opportunistic or lazy (Denscombe 2007). As with snowball sampling, there are legitimate reasons to use convenience sampling. With a hard-to-reach or seldom heard population, a researcher needs to take advantage of the opportunities that present themselves to recruit participants (Platt et al. 2006). As I met messengers—usually at the Worker Centre—I approached them, told them who I was and what my research was about, and asked them if they wanted to be interviewed.

Initially, most people I approached agreed to be interviewed, but a few appeared to change their minds, that is, not returning phone calls or emails to set up an interview. Finally, purposive sampling was also used. Purposive sampling is beneficial to use when there are particularly knowledgeable individuals, such as campaign coordinators and active members in the organizing campaign. These individuals can contribute quite valuable information to the research project, which other research participants may not be in a position to provide (Kirby and McKenna 1989).

Recruiting research participants was facilitated by Mark, one of the campaign coordinators. I initially contacted Mark in the early stages of my research and we met to discuss my research in early December 2010. He was quite interested in my research, and since I had pro-union sympathies, he agreed to help recruit research participants. Mark introduced me to workers as they came into the Worker Centre and also contacted some other messengers on my behalf whom he thought might be interested in participating. As a bike messenger for nearly a decade, Mark is immersed in the occupational community and knows many of the bike messengers in Toronto. His embeddedness in the messenger occupational community helped considerably with recruiting research participants. Without his assistance, the fieldwork would have likely been more difficult to undertake and much more time consuming.

As an incentive to be interviewed, I offered research participants $10 compensation for their time. In research ethics debates, offering compensation to research participants can be a contentious issue. Some see paying research participants

as a violation of the principle of voluntary and informed consent. Paying research participants is seen as an excessive influence, and as limiting research participants' ability to weigh freely the risks and benefits of taking part in the research (Macklin 1989; Fry et al. 2006). This, however, assumes that research participants can be easily manipulated. It also assumes that research participants should be altruistic and freely give their time and agree to participate for the common good. To limit any possible coercion, I made the payments at the beginning of the interview. I stressed that the $10 is for attending the interview only and that the research participant was free to answer or not answer any questions, as well as to end the interview at any time. Even though they are low-paid workers, $10 should not be considered as excessive to the point of being coercive (Head 2009). Inaccurate or untruthful responses have also been identified as an issue when paying respondents. Because research participants are being paid, they may provide researchers with the answers that the researchers want to hear. The validity of data may be an issue (Fry et al. 2006; Ripley 2006). However, the validity of data, in terms of research participants saying what the researcher might want to hear, is also an issue when research participants are not financially compensated. Caution needs to be taken whether one is paying research participants or not (Singer and Kulka 2002).

While there are some possible quandaries in offering financial compensation to research participants, there are also considerable benefits. Offering financial compensation can be seen as a sign of respect and that the research participants' time

is valued. This is especially important for low-income workers whose time is generally not valued. By paying participants, it recognizes their contribution to the research. It also alters the distribution of rewards of the research process. Researchers receive external rewards, such as salaries, recognition, tenure, or, in my case, a PhD, for conducting research. There is no principled reason why research participants should not also be offered some sort of external rewards, such as financial compensation. Pragmatically, offering payments also makes recruiting participants easier and has been found to increase response rates for both interviews and surveys (Singer and Kulka 2002; Head 2009). While the payment certainly helped in the recruitment process, financial compensation was not the only reason that research participants agreed to partake in the study. Many of the research participants expressed a genuine interest in my research. Two research participants also turned down the payment.

The purpose of conducting in-depth, semi-structured interviews is to gain insight into messengers' experiences of working in the same-day courier sector and how messengers view the CUPW courier organizing campaign. Interviews are useful to help uncover how particular social phenomena are experienced, as well as how existing social relations are consented to, resisted, and sometimes also transformed. The first-hand accounts of workers are necessary to develop a theoretical explanation of messenger work and the CUPW organizing campaign. A semi-structured interview can be thought of as a guided conversation between a researcher and a research participant. This type of interviewing is flexible and it allows a researcher to explore

issues where responses are not predetermined and to address issues and topics that emerge during the interview process. While an interview schedule is used to guide the interview, semi-structured interviewing allows research participants to have relatively more control over the interview and to discuss issues that are important to them (see Appendices C and D for interview schedules). The issues and topics addressed in interviews can be understood differently by different research participants. Through the use of follow-up questions, a researcher can discover why certain issues and topics may be understood differently by various research participants. Follow-up questions also allow a researcher to explore why different research participants may see certain issues and topics as more or less important (Kirby and McKenna 1989; Stoecker 1991; Kvale 1996). A questionnaire, which focused on workers' employment status, supplemented the interviews (see Appendix E) and was used because the questions only required a 'yes', 'no', or 'don't know' answer. I wanted to make the most productive use of my and the research participants' time, and a questionnaire is more efficient than asking questions verbally.

Some social researchers criticize the reliability of in-depth, semi-structured interviews (Diefenbach 2009). While I did use an interview schedule, follow-up questions depended on the responses of the research participants and what they were interested in discussing. Different probing techniques were also used for different research participants. Reliability with this method, therefore, cannot be guaranteed (Coffey and Atkinson 1996; Babbie 2002). While it is likely impossible for someone

else to replicate the study to get exactly the same data and information as I did, another researcher with the same political orientation, gender, ethnicity, and age, using the same interview schedule with the same research participants, would likely get comparable results. There is reliability to a degree.

After the interviews were completed and transcribed they were coded. Data must be coded to help with analysis,[9] as it allows one to make sense of the information collected through interviewing. Coding involves classifying and categorizing individual pieces of data. The aim of coding is to discern patterns, similarities, and differences in the participants' experiences so that a theoretical understanding of what is studied can be developed. Concepts are the organizing principle for qualitative coding. The process of coding can also help generate concepts. It is a back and forth type of method for data analysis. Coding allows for rigorous review of the data that is collected and for the researcher to interact with and think about the data (Kvalve 1996; Babbie 2002).

Conclusion

Political economy—understood as a materialist, historical, and dialectical theory of social life with a focus on the power relations surrounding the production, distribution,

[9] The following codes were used in this dissertation to organize and think about the data: finding work; employment tenure; skills; health and safety; employment status; labour process; training; income and expenses; ownership of tools; fluctuations in work volume; competition in the same-day courier sector; relationship with the dispatcher; relationship with the employer; interactions with customers and the public; occupational community; reasons for unionizing; obstacles to unionizing; involvement in campaign; and worker centre.

and consumption of resources—is among the most comprehensive theoretical perspectives to understand work, employment relationships, and worker organizing. As a theoretical framework that incorporates a normative standpoint, political economy is also useful in exposing and critiquing the exploitation and many injustices that workers, such as bike messengers, face. As discussed further in the next chapter, a purposive approach to labour and employment law also directs our attention to detecting employer abuses. While political economy is quite useful, labour process theory is a useful supplement to explore the dynamics of control and resistance in the labour process. The methodologies and the methods used in this dissertation are compatible with the critical political economy theoretical approach, labour process theory, as well as with a purposive approach to labour and employment law. The methodologies in this dissertation privilege the experiences, perceptions, and understandings of research participants as a source for information, which are rich deposits of information for the production of theoretical knowledge. The main method that I used—qualitative interviewing—is designed to capture information based on the experiences, perceptions, and understandings of the research participants, making it compatible with the methodologies. The other two methods—observation and documentary analysis—can be considered as supplementary to the main one. By combining the theoretical framework with the methodologies and methods, I am able to document, make sense of, and construct an explanation of messengers' working lives based on their accounts. By using this integrative approach, I can also document

and theorize the dynamics of the CUPW organizing campaign based on messengers and union organizers' accounts. Having articulated the theoretical perspective as well as the methodologies and methods I use in this dissertation, I now move on to examine the academic literature on employment, self-employment, and disguised employment in the next chapter.

Chapter Three:
Employment, Self-Employment, and Disguised Employment

Introduction

Employment status—that is, whether someone is considered an employee or self-employed—has far reaching implications for the working population. Having the employment status of an employee provides workers with employment standards protections, the right to associate and bargain collectively, as well as access to a host of employment related social and economic benefits. The same is not the case for the self-employed who are treated as entrepreneurs and assumed to be operating and taking risks in a competitive market environment. The self-employed are not seen as needing the same benefits, rights, and protections as employees. Classifying workers either as employees or as self-employed is also a decisive consideration for firms. By treating workers as self-employed, firms can realize significant cost savings, skirt obligations that they would otherwise have to workers if they are classified as employees, as well as avoid a unionized workforce. Employment status is critical to look at especially in the Canadian context, as the proportion of the labour force classified or misclassified as self-employed has expanded over the last few decades (Davidov 2002; Fudge et al. 2002; Fudge 2006; Bickerton and Warskett 2005; Lowe and Schellenberg 2013).

The messengers who work for Toronto's numerous same-day courier firms are treated as self-employed, specifically independent contractors; however, as Chapter Five reveals, a closer inspection of the terms and conditions of their employment

shows that their current employment status entails a misclassification. In other words, messengers are disguised employees. Disguised employment is a form of paid work where workers are treated as if they are self-employed, often legally considered to be independent contractors; yet, the relationship with the firm that pays them to perform work has all the trappings of an employment relationship, but none of the benefits of self-employment, such as more independence, control, autonomy, and the potential to earn a higher income (Stanworth and Stanworth 1995; Davidov 2002; ILO 2006).

To understand whether or not the self-employed status of bike messengers should be considered a misclassification, this chapter examines the phenomenon of self-employment as a relationship in which one party pays another party for producing a service or furnishing a good. This relationship is also compared with the employment relationship. I begin this chapter with a review of how self-employment is conceptualized in various academic disciplines—specifically economics, sociology, and socio-legal studies—and assess how this literature can help identify disguised employment relationships. I then move on to chart the legal distinctions between employment and independent contracting and discuss why employees and independent contractors are accorded different labour and employment rights, benefits, and protections. Following this, I examine the tests used to determine employment status. While these tests can be somewhat problematic, they can still be useful if it is suspected that a worker is in a disguised employment relationship. In the final section,

I also discuss some ways in which these tests could be made more precise and relevant in determining employment status and contesting disguised employment relationships.

To safeguard workers who need basic employment standards protections and to make sure workers have the right to associate so that they can attempt to improve the terms and conditions of their employment, it is critical to combat disguised employment relationships. One way to do this is by challenging the employment status of workers who are misclassified by their employer as self-employed in order to ensure that they are classified under the more appropriate status of an employee. As I suggest in this chapter, in situations where employers wilfully misclassify workers as self-employed instead of employees in order to evade employer obligations, reduce labour costs, create a more flexible workforce, and avoid unionization, this employer practice needs to be challenged. This argument is based on what is referred to in socio-legal scholarship as a purposive approach to labour and employment law. The applicable legislation should cover workers that it is intended to cover (Davidov 2002). However, this is not to say that labour and employment protections should be limited to workers who can prove they are employees. Clearly, there are all sorts of workers who may not be legally considered employees, but would benefit from such rights and protections. As a longer term strategy, trade unions and the labour movement need to fight to extend rights, benefits, and protections to all workers dependent on their ability to work unless there are valid reasons to the contrary, and this extension would include many workers who are currently classified as self-employed (Cranford et al. 2005). In

the short term, however, challenging disguised employment can be considered a pragmatic strategy to improve the working conditions of many marginalized workers, such as bike messengers, and a purposive approach to labour and employment law can assist in doing this (Davidov 2002).

Economics and Self-Employment

Among academics, economists have devoted considerable attention to self-employment. In the economics literature, the terms self-employment and entrepreneurship are often used interchangeably. The literature depicts the ideal type self-employed person in the figure of the classical petite bourgeoisie (de Witt 1993; Connelly and Gallagher 2006). A considerable amount of analyses conducted by economists on self-employment and entrepreneurship is influenced by the work of Schumpeter (1975). The entrepreneurial activities of the self-employed are central to his theory of creative destruction. According to Schumpeter, competition in the economy appears in the form of new firms driven by entrepreneurs and their innovative ways to produce new or improved goods and services. A wave of entrepreneurial activity hits the economy and new firms arise. These firms producing new or improved goods and services displace existing goods and services and the firms producing them. This is followed by a host of competitors entering the field until the cycle repeats itself. Schumpeter sees the self-employed entrepreneur as a necessary innovator, breaking up established routines in a market economy (Schumpeter 1975;

Kirchhoff 1996; Schiller and Crewson 1997; Brouwer 2002; Parker 2004; Beugelsdijk and Nooderhaven 2005).

While the above may describe the entrepreneurial activities of some of the self-employed and the competitive market environment in which they operate, it is questionable if this is an accurate reflection of the work or income generating activities for many who are labeled as self-employed. To be sure, it is inaccurate to depict all, or even most, of the self-employed as if they were entrepreneurs. Equating entrepreneurship with self-employment misses the dynamics of self-employment in many advanced capitalist societies. For many who are considered to be self-employed, entrepreneurship has little, if anything, to do with their work (Dale 1986; Fudge et. al. 2002; Vosko 2010). Assuming that all individuals who are labelled as self-employed are entrepreneurs also results in failing to account for all those workers who could be in disguised employment relationships. There is a need to question if all those who are currently classified as self-employed should realistically be considered self-employed. When the reality of their work relationships is examined, many workers who are currently classified as self-employed cannot be considered legitimately self-employed. Many of these workers are disguised employees (Stanworth and Stanworth 1995; Bickerton and Warskett 2005).

Economists generally take a positive view of self-employment and advocate for policies to stimulate its growth. In line with Schumpeter, the self-employed are depicted in much of the literature in economics as pioneers who are constantly charting

out new business opportunities that others have missed. The self-employed are also seen as the most dynamic actors in the economy and responsible for much economic growth (Blanchflower et al. 2001). These accounts of self-employment are often based on assumptions that a growing enterprise culture is permeating advanced capitalist economies and that a free market, without bureaucratic state interference, is the most efficient way to organize economic activity (Peters 2001; Greene et al. 2008). A common claim in this literature is that individuals prefer to be self-employed, but cannot realize their ambitions because of constraints and obstacles to launch new business undertakings, such as lack of capital and burdensome state regulations. This latent entrepreneurialism could be fully realized if the state eliminated barriers for people wanting to engage in self-employment (Blanchflower et al. 2001; Benz and Frey 2008).

Another tendency of the literature in economics is to accept self-employment as it appears on the surface. If someone claims to be self-employed or if they are classified as self-employed, then economists often assume that the person is, in fact, self-employed without critically looking at the relationship that the individual has with an employer, client, or firm that pays him or her for furnishing a good or producing a service. In the economics literature, the difference between employment and self-employment is often arbitrarily based on the method of payment (de Witt 1993; Lin et al. 2000). Lin et al., for example, suggest, "people are self-employed if they report earnings from self-employment in their personal income tax returns" (2000: 107). Self-

employment becomes a catchall term for remunerated work that is not paid through hourly wages or salaries. Accepting someone's self-employment at face value can also end up conflating those who are self-employed because of employer misclassification with those who are legitimately self-employed and engaged in actual entrepreneurship. When examining self-employment, it is critical to go beyond labels and examine the reality of a self-employed person's work relationships (Linder 1989; Davidov 2002). While recognizing the differences in the amount of income and whether or not the self-employed employ others, the self-employed are often depicted in much of the literature in economics as having little internal differentiation. However, when looking at the reality of the work relationships of those who are classified as self-employed, it is evident that they cannot be treated as a homogenous group (Dale 1986).

Economists also place much emphasis on the reasons why individuals enter self-employment. When examining the reason why people enter self-employment, economists focus on push and pull factors; however, they tend to do so in a dichotomous manner (Hughes 2003). They advance pull factors to explain voluntary self-employment, and use push factors to explain involuntary self-employment. Pull factors are associated with the benefits that self-employment can offer, such as greater independence, control, autonomy, and the potential to earn a higher income. Workers in a rational and calculative manner voluntarily seek out entrepreneurial opportunities in open and competitive markets. Economists who stress pull factors do not see self-employment as a reaction to deteriorating employment opportunities in the labour

market (Lin et al. 1999 & 2000; Blanchflower et al. 2001). Push factors, on the other hand, are associated with economic necessity, such as high unemployment, involuntary job loss, and lack of suitable jobs. For those who are pushed, self-employment is a choice made under considerable constraints (Moore and Mueller 2002).

Much of the literature in economics suggests that pull factors are the primary reason why individuals enter self-employment. For many economists entering self-employment is, therefore, seen as a freely made choice. Because they understand most of the self-employed as pulled into self-employment, economists tend to portray self-employment in a favourable light (Lin et al. 1999 & 2000; Blanchflower et al. 2001). However, some economists suggest that push factors should be taken more seriously and are quite relevant to understanding the reasons why many individuals enter self-employment (Moore and Mueller 2002). Other economists suggest that the influence of push or pull factors on self-employment is ambiguous at best, resulting from inadequate conceptualizations of these factors in much research (Meager 1992). The dichotomous model of push and pull factors does not capture the complexity of real life decision making processes when individuals engage in income-generating activity. It is often a combination of push and pull factors that influences people to enter self-employment (Hughes 2003). For some occupations, such as those in the same-day courier sector, workers have no choice but to accept self-employment (Bickerton and Warskett 2005), making the notion of pull and push factors largely irrelevant. As discussed in Chapter Five, in Toronto's same-day courier sector, finding work as an

employee is not an option. For these messengers, it is either self-employment or no work at all in this sector. The idea of choosing self-employment over employment, therefore, needs to be problematized (McKeown 2005; Vosko and Zukewich 2006). In sum, while the literature in economics may be useful in examining some types of self-employment—such as genuine entrepreneurship—it is limited in understanding the work relationships of many who are classified as self-employed, especially those who may be misclassified as self-employed.

Sociology and Self-Employment

Sociologists have also devoted considerable attention to self-employment. For the most part, analyses of self-employment by sociologists tend to be more critical than those advanced by economists. Sociological research on self-employment and entrepreneurship tends to focus heavily on class and is influenced by the writings of both Weber and Marx. Similar to the literature in economics, the sociological literature depicts the ideal type self-employed individual in the figure of the petite bourgeoisie. The self-employed own their means of production, have autonomy in the labour process, manage their own business by using their entrepreneurial judgment, directly sell their products or services on the market to consumers, and have a chance to make a profit or incur a loss through their market activities and entrepreneurial abilities. In some sociological analysis, such as in the work of Steinmetz and Wright (1989), the self-employed are treated as distinct from both the capitalist class and the working

class. The self-employed petite bourgeoisie work for themselves, are engaged in independent or simple commodity production, and are autonomous of both the capitalist and working classes. However, the existence of a truly independent petite bourgeoisie should be questioned. Both historically and in contemporary times, most of the petite bourgeoisie were or are in relationships of varying degrees of subordination and dependence on more powerful forms of capital, such as merchant, financial, transportation, wholesale, or industrial capital. They cannot be seen as truly independent producers (Clement 1983; Linder and Houghton 1990).

Before reviewing more contemporary sociological accounts of self-employment, it is useful to review what some of the classical sociologists had to say on the subject. Weber (1978 & 2001), for example, has made significant contributions to sociological understanding of self-employment and entrepreneurship. For Weber, owning property is essential to being a part of the self-employed entrepreneurial class. Weber stresses two types of property owners, the entrepreneur and the *rentier*; the latter takes in profits exclusively from his or her investments and the former productively uses his or her property along with his or her capacity to labour to sell his or her goods or services in the market directly to customers. For Weber, real productive property—not nominal property, such as a bicycle—is necessary for entrepreneurial endeavours (Weber 1978; Breen 2005; Minns and Rizov 2005). Weber also focuses on how cultural values relate to entrepreneurship and he sees the entrepreneurial petite bourgeoisie, with their Protestant work ethic, as central to the origins of capitalism. The entrepreneur tends to

be mission-oriented, has confidence in his or her own capabilities, and can quickly respond to emerging opportunities in the market. Dedicating oneself to hard work, despising idleness, being forward-looking or future-oriented, practicing thriftiness, and reinvesting profits into the business are the hallmarks of the self-employed entrepreneur. For the Protestant entrepreneur, success and material wealth from one's economic activities are also seen as signs of godly approval (Weber 2001; Thomas and Mueller 2000; Brouwer 2002). While useful, the sociological literature on self-employment influenced by Weber's writings, similar to the literature in economics, tends to be limited in understanding the situation of one stratum of those currently labeled as self-employed, namely the entrepreneurs.

In his writings, Marx also discusses the position of the self-employed petite bourgeoisie, as well as the self-employed who resemble subordinated and dependent employees. Marx and Engels (1999), for example, stress that with the development of the capitalist mode of production, the petite-bourgeois middle class, that is, shopkeepers, artisans, professionals, and craft workers, would gradually disappear as a significant class, either sinking into the ranks of the proletariat—the fate for the majority—or rising into the ranks of the capitalist class—the fate only for a few. Some Marxists adopt a similar view on the declining significance of self-employment and the petite-bourgeois middle class as capitalism continues to develop (Cuneo 1984; Teeple 1995). Marx's views on the self-employed can also be traced to his writings on simple commodity production. Those engaged in simple commodity production

appropriate the value of their surplus labour by independently setting their own labour-power into motion and using the means of production, which they own and control, to produce goods and services directly for sale on the market (Gabriel 1990; Steinmetz and Wright 1998; Hotch 2000). Again, this only describes the working activities of some of the self-employed. Using the figure of the petite bourgeoisie or the idea of simple commodity production to theorize self-employment in contemporary contexts does little to assist in analyzing the work relationships of many workers who are labeled as self-employed, especially for those whose self-employed status may entail a misclassification.

Other writings of Marx, however, may be more useful to understand the situation of a significant number of the self-employed, especially those who may be disguised employees. Marx (1973) discusses a relationship in which workers may retain ownership over the means of production, but, at the same time, are subordinated to and dependent upon an employer, a merchant, or some other sort of intermediary (Clement 1983). Of this relationship, Marx describes the means of production as "*sham property*" left in the workers' hands "in order to reduce... [the employer's]...own production costs". Workers "ultimately produce only *for* and *through*" the employer or merchant (1973: 499 emphasis in original). Marx's depiction of this relationship, where workers retain nominal ownership of means of production, has relevance in understanding the situation of disguised employees, such as messengers. While owning some of the means of production, these workers can only produce goods or

services through the intermediary of the courier firm. These workers cannot be considered as independent commodity producers or part of the petite bourgeoisie middle class. Ownership of nominal means of production—such as a bicycle and a messenger bag—does not place workers in the class of the petite-bourgeois entrepreneur. These workers cannot use their means of production independently of their employer to earn an income, let alone generate a profit. Marx's formulation of "*sham property*" (1973: 499), and the work relationships that stem from this type of property, is useful in identifying and analyzing disguised employment relationships.

From the 1970s onwards, the growth of self-employment in many advanced capitalist societies has fostered a renewed sociological interest in the topic (Dale 1986; Bögenhold and Staber 1991; Hughes 2003). A number of sociologists question if the ideal type self-employed individual, which the petite-bourgeois entrepreneur personifies, is an accurate representation of the reality of self-employment for many. The situations of many workers classified as self-employed differ dramatically from this ideal type. Many of those labeled as self-employed exist in some degree of dependence vis-à-vis an employer or employers, do not own the means of production in any substantial way, have limited control over the content and means of carrying out their work, do not operate their own independent businesses, are more or less integrated into the business operations of their employer, and do not sell their products or services directly to consumers on the market. While there are forms of self-employment that do approximate the ideal type, a growing number of work

relationships, which are being classified as self-employment, depart significantly from the ideal type, to a point where calling it self-employment becomes disingenuous (Linder and Houghton 1990; Stanworth and Stanworth 1995; Bickerton and Warskett 2005; Vosko 2010).

There are numerous individuals labelled as self-employed who work for only *one* company and their relationship with that company is a hierarchical one in which they are subordinated to, controlled by, integrated into, and dependent on that *one* employer. This sort of self-employment entails a misclassification. These workers are, in fact, disguised employees. Many workers are routinely misclassified as self-employed—often as independent contractors—either through ignorance or through deliberate employer manipulation to reduce operating costs, achieve a more flexible workforce, and avoid unionization (Stanworth and Stanworth 1995; Middleton 1996; duRivage et al. 2003). This is a phenomenon that the Organization for Economic Cooperation and Development (2000) recognizes as problematic. The ILO (2006) also sees the rise of disguised employment relationships as worrisome and calls on member states to implement policies to combat it. Disguised employment relationships need to be challenged so that these workers can gain the rights, benefits, and protections that they are intended to have.

Sociologists have made valuable contributions to understanding recent developments in self-employment, especially by challenging conventional idealizations of self-employment, which do not often correspond with the reality of

work for many who are classified as self-employed. It is clear that the self-employed do not form a homogenous group (Dale 1986). Being self-employed is not necessarily the same as being an entrepreneur, and self-employment for many is often barely distinguishable from employment (Cranford et al. 2005; Vosko 2010). Many workers also find themselves misclassified as self-employed, and the critical sociological literature can help us identify these disguised employment relationships (Dale 1986; Stanworth and Stanworth 1995; Bouclin 2004; Bickerton and Warskett 2005).

Socio-Legal Studies and Self-Employment

A growing body of research in socio-legal studies in Canada and elsewhere focuses on the inadequacies of collective bargaining and employment standards legislation to protect vulnerable workers who are not in a traditional employment relationship, including many workers who are labelled as self-employed. In examining the growth of self-employment, critical socio-legal scholars generally agree that there are many vulnerable workers in need of protection. However, there is disagreement over which workers employment standards protections and collective bargaining rights should cover or be extended to, and through what means this coverage could be realized (Linder 1988 &1989; Langille and Davidov 2000; Davidov 2002; Fudge et al. 2002; Cranford et al. 2005; Fudge 2010; Vosko 2010).

In Canadian scholarship, Arthurs (1965) was among the first to inquire into the situation of workers who could benefit from collective bargaining rights; however,

because they were legally considered independent contractors, they could not avail themselves to these rights. In an influential article on the subject, Arthurs coined the term "dependent contractor" to describe workers who are not employees according to traditional common law understandings, but in reality are quite similar to employees. These workers are classified as independent contractors, but are often in a position of economic dependence on a single entity or person. In other words, their work relationship is barely disguisable from that of subordinated and dependent employment relationship. Arthurs approached the question of the adequate scope of collective bargaining legislation through the lens of competition policy. Since independent contractors are understood to be self-employed and are assumed to be entrepreneurs, competition law, at that time, excluded independent contractors from associating and bargaining collectively. Allowing independent contractors to associate and engage in collective action is seen as a conspiracy in the restraint of trade, which is a serious affront to the basic principles of liberal capitalist societies. Nonetheless, the relationship between these workers and the clients or employers who purchase the goods or services they produce can often be marked by an inequality in bargaining power—a situation that Arthurs saw as undesirable. To remedy these unjust circumstances, some of these workers should instead be classified as dependent contractors, be exempt from competition law, and be allowed to associate and bargain collectively as employees are permitted to do. Since the 1970s, dependent contractors have gained rights to association and collective bargaining in several Canadian

jurisdictions, including the federal level and the province of Ontario. Some independent contractors have also gained the right to bargain collectively, such as artists under the federal *Status of the Artist Act* (Langille and Davidov 2000; Cranford et al. 2005; Vosko 2005).

Building off the work of Arthurs, other scholars in Canadian socio-legal studies, such as Fudge *et al.* (2002), Cranford *et al.* (2005), and Vosko (2010), argue that collective bargaining legislation needs to be extended to cover all workers who are dependent on selling their labour-power, unless there is a principled reason why they should not be covered. The legal status of dependent contractor is irrelevant for many workers who are classified as self-employed and do not have a single client or firm with which they contract. For a worker to be designated as a dependent contractor rather than an independent contractor, he or she must be under a formal obligation to perform duties for a particular client. This can have the consequence of excluding a significant number of workers who may be under no formal obligation to regularly work for a particular client or firm. However, their economic circumstances may leave them with no other viable options other than to work for that client or firm. Workers with multiple clients or workers who contract with multiple firms are also excluded from dependent contractor status. While a worker may have more than one client and, therefore, is not dependent on any one in particular, the relationships with these clients or firms may also closely resemble that of an employment relationship. These workers can still be in a subordinated position vis-à-vis the client or employer. These workers,

they argue, are also in need of the protection afforded through labour and employment legislation.

These same scholars question the traditional conceptualizations of employers and employees, which are used to determine the rights and obligations of certain individuals. With a changing political economy that emphasizes such things as flexible forms of work, market-mediated work, contracting out, and entrepreneurialism, the legal concepts of employee and employer, they argue, have become seriously undermined. The social norms of work and the legal form of employment are becoming increasingly more distant from each other. These scholars start from the question of who should be able to bargain collectively and have rights to employment standards protections, instead of questioning who is or is not legally an employee. Many workers are in need of protection, and a traditional employment relationship, they suggest, should not be a prerequisite for a worker to enjoy labour and employment rights. There is an urgent need for updated legislation to reregulate relationships for the paid performance of work in order to protect a growing number of people working at the boundaries of the traditional employment relationship. Unless there are valid grounds to the contrary, they suggest that all workers dependent on the ability to work to earn an income should be covered by labour and employment protections that are currently only afforded to employees and dependent contractors (Fudge 1999; Fudge et al. 2002; Cranford et al. 2005; Vosko 2010).

While scholars, such as Fudge et al. (2002), Cranford et al. (2005), and Vosko (2010), argue that the distinction between employees and other groups of workers should be eliminated for the purposes of labour and employment rights and protections, other scholars—such as Harper (1998), Langille and Davidov (2000), Davidov (2002 & 2011), and McClelland (2012)—differ. Davidov (2002 & 2011), for example, suggests that a distinction between employees and other groups of workers is important and should be maintained for pragmatic purposes. He argues that not all workers, especially highly skilled ones, are in need of protection; some workers are in a position to negotiate and can reach a fair and socially acceptable agreement with those to whom they contract. Some workers can also spread risks around the market, and because of this, they are not dependent on any particular client or firm. Other workers, who are dependent on one employer or one firm and cannot spread risks around the market, are individuals in need of labour and employment protections. As individuals they are often in a position where they cannot negotiate fair or socially acceptable contracts with their employer because of an inequality in bargaining power. These workers should have access to the rights and protections afforded through employment standards and collective bargaining legislation.

The deliberate misclassification of workers as self-employed is one reason that can be advanced as a justification to extend labour and employment protections and rights to all workers who are dependent on their ability to work to earn an income. From a normative standpoint, one can legitimately argue that all workers who are in

need of protection should be afforded such protection. However, it is questionable, given the prevailing political winds, whether governments would willingly impose more stringent regulations on markets that they see as commercial ones, or extend protections and rights to workers who are not seen as being in need of them. Employee status should not matter for the purposes of employment standards protections and collective bargaining rights. However, with current labour and employment legislation, this status does matter and will likely continue to matter for the foreseeable future (Linder 1988). Challenging the employment status of workers who are disguised employees may be a more manageable and pragmatic endeavour than pressuring governments to include the self-employed under employment standards and collective bargaining legislation.

The Legal Distinctions between Employment and Independent Contracting

Throughout the twentieth century and continuing into the twenty-first century, scholars, law makers, labour lawyers, courts, labour relations boards, employers, and unions have debated the legal question of whether a worker is an employee or an independent contractor (Davidov 2002). While treated as legally distinct, both employees and independent contractors enter into a legal relationship with an employer, firm, or a client in which they are paid to perform work. Both employees and independent contractors are dependent on their ability to work to earn an income. However, the relationship between an independent contractor and his or her client or

employer is regulated under commercial and contract law and not collective bargaining and employment standards legislation. Independent contractors enter into a *contract for services* with a client or a customer and form a commercial relationship. Employees enter into a *contract of service* with an employer and form an employment relationship. With a contract of service, a worker is employed as part of the business and the work that he or she does is more or less fully integrated into that business. With a contract for services, a worker completes certain tasks for that business, but the worker is neither part of nor fully integrated into that business. Unlike the contract of service where the worker is subordinated to an employer and the employer decides where, when, and how the work is done, a contract for services, while requiring that certain tasks are completed, should maintain the independence of the provider of the service in terms of how the tasks are completed. A key difference between a contract for services and contract of service is the control exercised by the employer over the worker in the labour process. Ideally, with independent contracting, a worker should not be subject to the authority of the client or firm in terms of how the work is undertaken (Hogler 1996; Langille and Davidov 2000; Fudge et al. 2002; Vosko 2010).

Historically, in both civil and common law systems, determining employment status was based on whether the worker was subordinated to or under the control of the employer. Employees are normally under the control of the employer, while independent contractors should not be. The relationship between employees and

employers derives from the master-servant relationship and the laws and customs regulating it. The master-servant laws imposed a subordinated status on servants and they could face criminal penalties for insubordination. Master-servant laws were central to the creation and functioning of early capitalist labour markets. Not all workers, however, were subject to these punitive laws and customs. Some independent artisans, craft workers, and professional workers were outside the scope of this legislation and could freely contract with employers (Fudge et al. 2002; Fudge 2006; Deakin 2007).

In the master-servant relationship, there is a clear hierarchy between the two parties; both have fixed positions within society, set through both custom and law. However, relationships based on status became incompatible with bourgeois ideology in liberal capitalist societies, which demanded, at least, formal equality between individuals entering into economic relationships with each other. The master-servant laws were eventually repealed and employment became conceptualized in contractual terms between two people seen as legal equals. Liberal bourgeois ideology proposes that a functioning and healthy society derives from juridical equals being able to meet in the marketplace, both pursuing their own self-interest unhampered by any legal or extra-economic restrictions. Freedom of contract between consenting adults, without state interference, is supposed to be one of the hallmarks of liberal capitalist societies (McCallum 1996). Employers and employees, however, are not equals despite the contractual language that depicts them as such. While the law treats them formally as

equals, the power that employers can exercise in this relationship generally compels industrial workers to accept the contract on the employer's terms. The shift from status to contract, as Fudge et al. (2002) suggest, can be understood as an ideological construct that masks the hierarchical nature of the employment relationship.

Despite the freedom of contract that liberalism espouses, the state has come to recognize after much pressure from workers that the relationship between employers and employees is not one between equals and that this relationship needs to be regulated. As the master-servant laws were repealed, new regulations and legislation were being imposed on employment relationships in capitalist labour markets. Employment standards and collective bargaining legislation acknowledge the inequality in employment relationships (Fudge et al. 2002). If there is equality in the relationship between employers and employees, labour laws and employment standards legislation would be unnecessary, as workers could advance their interests and reach a fair contract through their own individual bargaining power. While modest and not adequately enforced, employment standards do offer some legal protections and guarantees to employees as well as avenues for recourse if employees' rights are violated by their employer. Unlike independent contractors, employees are protected against unfair dismissal, have a right to earn minimum wage and overtime pay, are protected from working excessive hours, have paid vacations and statutory holidays, have access to paid parental leave, are covered by health and safety legislation, can access compensation in case of injury, can collect unemployment insurance if they lose

their employment, and can collect a state pension when they retire (Haddow and Klassen 2006). Because of the recognized power imbalance between employers and employees, employees and dependent contractors in most Canadian jurisdictions are also permitted to associate and engage in collective bargaining with their employer for their own protection and to advance their rights and interests. Apart from artists under the federal *Status of the Artist Act*, which covers independent contractors in the cultural sector, and specific legislation covering workers in the construction sector, employee or dependent contractor status is a precondition for workers to be able to associate and engage in collective bargaining (Fudge 2003; Davidov 2004; Cranford et al. 2005; Vosko 2005).

The practice of excluding independent contractors from labour law and employment standards legislation is premised on the assumption that independent contractors are self-employed and entrepreneurs who must be kept in a distinct category beyond the grasp of legislation governing employment relationships. Independent contractors are assumed to be able to earn a living independently by using their specialized skills and entrepreneurial judgment in a competitive market environment. They are not supposed to be economically dependent on any particular person or entity and, by taking entrepreneurial chances, they can spread their risk around the market. Independent contractors are also considered to be skilled and knowledgeable workers who can organize their work as they see fit, adequately assess

health and safety risks in their work, and take care of themselves financially when work is slack (Jacobs 1953; Davidov 2002; Bickerton and Warskett 2005).

Independent contractors are also not seen as having the same needs as employees for labour rights, such as freedom of association and collective bargaining. Under commercial law, associating is seen as preventing competition. Free and open competition is supposed to be one of the hallmarks of liberal capitalist societies, and the *Competition Act* explicitly forbids independent contractors from associating (Fudge et al. 2002). Under contract law, those who enter into a contractual agreement are seen as legally equal. Allowing some individuals, such as independent contractors, to associate is seen as giving them disproportionate influence over the terms and conditions of the contracts. Independent contractors, unlike employees, are seen as having adequate bargaining power and are able to negotiate fair and socially acceptable contracts with an employer or client. Employees, on the other hand, are in a recognized disadvantaged position, suffering from an inequality in bargaining power where they cannot reach a socially acceptable or fair agreement; because of this, they are exempted from the restrictions on acting collectively in the labour market (Davidov 2002 & 2004). Many of these assumptions about the differences between employees and the self-employed are problematic, especially with the growing phenomenon of disguised employment; however, these assumptions do matter and structure the way in which the law treats different categories of workers. Various agencies of the Canadian state use a multi-factor test to determine if a worker should

legally be considered an independent contractor or an employee. These tests and some of the issues surrounding these tests are the focus of the next section.

Employment Status Tests

Many scholars regard the multi-factor tests used to determine employment status, at least as these are currently formulated, as problematic (Davidov 2002; Fudge et al. 2002; Fudge 2010; Vosko 2010). The criteria of these tests can often be ambiguous and not directly pertinent to establishing the existence or non-existence of an employment relationship. In some cases, it is relatively clear who is an employee and who is an independent contractor. In these cases, the tests can be applied in a relatively straightforward manner. In other cases, however, it can be less clear if the relationship is an employment or a commercial one. In these latter cases, the tests may not be the most helpful in distinguishing different categories of workers, but this does not mean these tests have to be completely discarded. When challenging the employment status of workers whose self-employment may be suspect, advocating for more relevant tests—while recognizing that they can never be one-hundred percent definitive in determining the more appropriate employment status—can be justified on pragmatic grounds (Davidov 2002).

This section focuses on the dominant tests for pragmatic reasons. These dominant tests are the ones that workers and organizations representing workers are currently required to use when challenging workers' self-employed status if a disguised

employment relationship is suspected (Langille and Davidov 2000; Davidov 2002). In these dominant tests, control has been the guiding factor used to determine employment status. Over time, other criteria, such as ownership of tools, chance of profit, risk of loss, and integration into the firm, have been incorporated in order to supplement control tests. In practice, there is no rule to stipulate which factor or factors should be most decisive in determining employment status. Depending on the circumstances, different factors can be given different weight (Fudge et al. 2002; Vosko 2010).

When asking who exercises control over the labour process another question must be posed simultaneously: what does control entail? Control should not only be thought of narrowly as an employer dictating precisely to a worker how he or she is supposed to undertake tasks. A worker does not need to be under direct supervision to be under the general control of an employer, a firm, or a client. Control over the worker can be indirect, and oftentimes indirect control is more effective than direct forms of control. Direct control can often engender worker resistance, and an employer may prefer to use a form of indirect control. One effective way of exercising indirect control over a worker is by instituting a system of incentives and disincentives, such as using bonuses and deductions for desirable and undesirable performance. The employer's ability to impose a cost on workers for non-compliance or reward workers for compliance can create a relationship where an employer has gained significant indirect control over the workers, rendering direct control over the labour process largely unnecessary (Bendel

1982; Langille and Davidov 2000; Davidov 2002). The fact that direct control over the worker may be absent should not mean that a worker all of sudden becomes an independent contractor (Linder 1988).

Some tasks require discretion and creativity to be properly executed, regardless of a worker's employment status. This also limits the employer's ability to directly control the worker. Employers often harness workers' creativity and problem solving abilities to make the labour process more efficient and productive, and without some discretion it would be difficult for workers to do anything but the most mundane, straightforward tasks. Many workers have some autonomy as they undertake their work, but are, nonetheless, still considered to be employees. Having the possibility to use discretion in the labour process, even a significant amount, should not automatically transform workers into independent contractors. In addition, workers, whether they are independent contractors or employees, may perform tasks away from the employer's premises and this also limits the employer's ability to directly control workers. Workers are generally still required to abide by rules and follow instructions when working away from the employer's premises. These rules and instructions can also be seen as an indirect form of control, especially when there can be consequences, financial or otherwise, for following or not following these rules or instructions. While a worker may complete his or her tasks outside the employer's premises, and, therefore, cannot be under the direct control of the employer, this should also not mean that the worker all of sudden should be legally considered an independent contractor.

If control is going to be used as part of the test to determine employment status, a narrow notion of control, as in direct control, cannot be legitimately used if these tests are to be applied purposively. Fortunately in Canada when control is used to help determine employment status, it is generally not reduced to forms of direct control as this is seen as unduly restrictive (Flannigan 1987; Langille and Davidov 2000; Davidov 2002).

Ownership of tools or the means of production is another question used to determine employment status. Like the control test, using ownership of the means of production as a criterion for determining employment status can be problematic. Ownership of the means of production can vary from a considerable investment to very modest expenditures (Stanworth and Stanworth 1995). Additionally, both employees and independent contractors can own tools, such as in the skilled trades. While employees generally do not own the means of production, there are exceptions and using ownership of the means of production as a clear-cut distinguishing characteristic to determine employment status can be problematic. While useful to consider as part of the overall picture, ownership of tools is only partially relevant to determining the employment status of workers (Linder and Houghton 1990; Bögenhold and Staber 1991; Steiger and Form 1991; Davidov 2002).

For many workers who are legally classified as independent contractors, ownership of the means of production is nominal. Owning the means of production can theoretically create some possibility for independence; however, ownership, in and

of itself, does not mean that independence is actually achieved (Linder 1990; Davidov 2002). Workers may retain immediate ownership over the means of production and be legally considered independent contractors, but they may not have real economic control over their means of production or be able to use the means of production to sell their services or products independently and directly on the open market. Despite possessing some or even all of the means of production, many workers legally classified as independent contractors do not control production since they cannot use their means of production independently of their employer. Workers are often subjected to the employer's restrictions on when and to what ends the means of production are used (Clement 1983 & 1986; Felstead 1991). Marx's notion of "*sham property*" (1973: 499) may be useful to help distinguish between real productive property and nominal property. When using ownership of tools as part of the criteria to determine employment status, what should be taken into account is the amount invested in the tools and whether or not this investment is nominal or substantial. More importantly, however, what needs to be considered is whether or not a worker can use the tools independently of his or her employer to earn an income. If a worker only has a minimal investment in tools and cannot use them independently of the firm or client for whom they work, this worker should legally be considered an employee or, at least, a dependent contractor.

Whether a worker has a chance to make a profit or incur a loss by taking entrepreneurial chances and risks are also considered when determining a worker's

employment status. A self-employed person should have the possibility either to increase or decrease his or her income by using his or her entrepreneurial initiative and taking entrepreneurial risks. The form of remuneration is often used as starting point to determine whether a worker has the chance to make a profit or incur a loss. The form of remuneration for many workers who are considered to be self-employed is often a commission or a piece rate. With the commission or piece-rate pay structure, the amount earned can be potentially increased or decreased depending on how the individual performs his or her work. An employee, on the other hand, generally earns a straightforward wage or salary regardless of initiative, effort, or how tasks are completed. A problem, however, with using the method of payment to determine if a worker has a chance to make a profit or incur a loss is that a firm can easily manipulate the method of payment. The firm generally determines the method of payment and can structure it in such a way to create an impression of a commercial relationship instead of an employment one (Collins 1990; Davidov 2002).

An employer can change a worker's method of payment to what is most convenient or most profitable. When the demand for a service fluctuates, as it tends to do in the same-day courier sector, it can often be more advantageous for a firm to pay a worker a commission or a piece-rate wage. An employer can change the mode of remuneration by tying income to productivity, yet leave the hierarchical nature of the relationship with a worker intact. If an employer links pay to productivity and opts for a commission or piece-rate instead of paying an hourly wage or a salary, it should not

be assumed that the worker has a chance to make a profit or incur a loss. As discussed in Chapter Five, if the employer controls the workload, it leaves workers with little scope to increase their productivity and the amount of income they can earn (Collins 1990; Broad 2000). Control over the workload should, accordingly, be made a more central factor when assessing whether or not a worker has a chance to earn a profit or incur a loss.

The degree of integration into the client's or employer's business is also a factor that the state uses in determining employment status. An employee is supposed to be integrated into the normal everyday operations of the employer's business. An independent contractor should be marginal to the employer's main business. In some cases, hiring a worker as an independent contractor can be a legitimate means of paying someone for work. Firms may contract out aspects of the business that are considered to be peripheral to their main activities or if they do not have the appropriate expertise in-house (Bendel 1982; Abraham and Taylor 1993; Davidov 2002; Kalleberg and Marsden 2005). Despite some legitimate uses of independent contractors, a business has significant freedom to determine its boundaries in terms of what is done in-house or what is contracted out to an independent entity or person (Fudge 2006). A firm can reorganize its operations in such a way that workers who were previously employees can be transformed into independent contractors. However, these workers may be doing the exact same tasks and be in a very similar relationship with the firm. Contracting out business functions can result in substantial cost savings

for employers, which means that there is an incentive to treat workers as self-employed. Because the employer can also manipulate the degree of integration into their business, integration can become problematic in determining the employment status of workers (Collins 1990; Langille and Davidov 2000).

Whether a worker is marginal to an employer's business or fully integrated into it, integration should not necessarily be an indicator of independence or dependence from that business. Instead, to determine what labour and employment rights a worker should have, the test should be based on whether he or she is operating a truly independent business. A need exists for a stronger business reality test. If someone is operating an independent business, he or she should be subject to commercial regulations. Legitimate commercial relationships should be able to exist. However, if the person is not operating an independent business, he or she should have the relationship with the person or entity that pays him or her for work subject to the applicable labour and employment legislation (Harvey and Behling 2008; Vosko 2010). Many workers who are treated as self-employed and legally considered to be independent contractors cannot realistically be considered as running their own independent businesses. Workers in such a situation are disguised employees. In sum, employment tests can be problematic, and will likely never be one-hundred percent definitive in determining employment status. However, with some modifications and if they are applied purposively, these tests can still be useful in determining a worker's more appropriate employment status.

Conclusion

Self-employment has received a significant amount of academic attention, particularly in economics, sociology, and socio-legal studies. While the literature in economics is useful to understand some forms of self-employment—entrepreneurship—it has limited efficacy in explaining the diversity of self-employment and identifying disguised employment relationships. The critical sociological and socio-legal studies literature is more helpful in examining and understanding the diversity of self-employment, as well as identifying the varied manifestations of disguised employment. With the recent growth in self-employment, it is necessary to question whether what is classified as self-employment is really self-employment. Much of it is disguised employment. Messengers' work, as I demonstrate in Chapter Five, is a prime example of such a relationship.

Employment status remains important and has far-reaching consequences. If a worker is classified as an employee, he or she has access to employment standards and labour law protections, as well as a host of employment-related social and economic benefits. The self-employed do not have the same benefits, rights, and protections, because they are assumed to be operating in the commercial realm and are considered to be entrepreneurs. For employers, classifying workers as self-employed can result in significant costs saving, having a more flexible workforce, and the ability to avoid unionization. Because of these incentives, some employers will misclassify their workers as self-employed in order to reduce operating costs and remain competitive. It

is vital for workers in disguised employment relationships to challenge their employment status so that they can gain access to the rights, benefits, and protections they are meant to have through employment standards and collective bargaining legislation. Pragmatically and from a purposive approach, it is important to ensure that the applicable legislation covers who it is intended to cover. This was also the approach taken by CUPW in their attempt to organize and represent messengers who work for Toronto's numerous same-day courier firms (CUPW n.d.). The criteria used in the legal tests to determine employment status can be somewhat problematic to clearly delineate who or who is not an employee. In some cases, it is relatively clear who is an employee and who is an independent contractor; nevertheless, there are cases in which a worker's employment status is not as clear-cut. Despite some problems with these tests, they can still be useful in challenging disguised employment if the tests are modified to make them more applicable as well as applied purposively and sensibly (Davidov 2002).

While making sure that the applicable labour and employment legislation covers who it is meant to cover is important, this assurance should not be taken to mean that only employees and dependent contractors should be entitled to labour and employment rights, benefits, and protections. There are many workers who would benefit from such rights, benefits, and protections, and, as a longer-term strategy for the labour movement, unions need to fight to extend rights and protections to any worker dependent on his or her ability to work, unless a compelling reason can be

given for why particular workers should not have these protections (Cranford et al. 2005). In the short term, however, challenging disguised employment may be a more pragmatic strategy to improve the terms and conditions of employment for workers, such as messengers, as opposed to calling on governments to introduce new legislation to ensure that all workers have access to the rights, benefits, and protections available through collective bargaining and employment standards legislation (Davidov 2002). Before examining the working conditions of messengers and analyzing the legitimacy of their employment status, the next chapter examines the development and structure of the courier sector in Canada and Toronto. To understand messengers' working conditions and why they end up working as disguised employees, it is necessary first to analyze the sector in which they work.

Chapter Four:
The Courier Sector in Canada

Introduction

Any advanced society requires some means to move information and goods in order for it to operate. Historically as well as currently, this need to move information and goods has been met by both public postal and private courier services[10] (Sage 2001). The speed at which postal and courier services move information and goods is critically important in advanced capitalist societies as delays in the communication, transportation, and distribution systems can impede business operations and hamper capital accumulation. In our current economy, private courier services are one way for businesses and other institutions to meet this need for rapid delivery of information and goods. Cost is also a central consideration for business users of courier and postal services. While private courier services tend to be more expensive than public postal services, speed is often the overriding factor for many businesses and institutions. At the same time, however, since there tend to be many courier firms offering similar services in cities such as Toronto, consumers of these services can also shop around for the most competitive price. Indeed, the market for courier services is often described as a buyer's market (Chase 1992; Wehr 2006; Menge and Hebes 2011).

The same-day courier sector is highly competitive with courier firms primarily competing on costs. Same-day courier firms continually attempt to undercut each

[10] Freight transportation and logistics services are also important means to move goods; however, this is considered a different economic sector, and is, therefore, excluded from the analysis in this chapter (Sage 2001; Breininger 2010)

other's delivery prices to attract new and retain existing clients. Same-day courier services are also labour intensive to produce, and labour costs are the costs which courier firms need to reduce in order to offer cheaper prices and to compete with other firms. As I suggest in this chapter, the highly competitive nature of the courier sector is one of the main reasons why same-day courier firms tend to misclassify workers as self-employed instead of as employees. If all other firms are treating their workers as if they are self-employed and legally classifying them as independent contractors, an individual firm has little choice or incentive other than to follow suit (Howely 1990). The competitive nature of the same-day courier sector is central to creating and maintaining the precarious and disguised employment relationships in which workers in this sector find themselves (Courier Research Project 2005).

This chapter presents an overview and analysis of the development of the postal and courier sectors in Canada, the relationship between the postal and courier sectors, and the current structure of the courier sector in Canada and in the city of Toronto. As the result of its historical development and the current political and economic climate in which it exists, the courier sector in Canada, as in other advanced capitalist economies, is highly competitive. Competition is intense both among courier firms and between courier firms and Canada Post. Business users of postal and courier services, private sector courier firms, Canada Post, industry associations, lobbyists, governments, unions, and workers are all central to shaping the dynamics of the

courier sector in Canada and its interconnection with state-provided postal services (Hallsworth and Taylor 2001; Campbell 2002; Courier Research Project 2005).

While private couriers have existed for a considerable length of time, the more recent development of the private courier sector in Canada, as in other advanced capitalist societies, needs to be seen as part of the ascendency and dominance of neoliberalism and the perpetual attempts by capital to find new ventures where profit can be made (Hallsworth and Taylor 2001). State-provided services, such as postal services, are particularly attractive for capital to attempt to compete with or to take over completely (Janzen et. al. 2001). Canada Post provides a range of services and operates in both competitive and protected markets. No monopoly protects the express delivery services that Canada Post provides, which are also quite lucrative, and there are many private sector courier firms vying with Canada Post for this business (Osborne and Pike 1988; Campbell 2002; Courier Research Project 2005).

To preface the discussion on the current structure of the courier industry in Canada, I begin this chapter with a brief history of postal and courier services. Historically, public postal services and private courier services have existed alongside and often in competition with each other. I then move on to chart the more recent development of the courier sector since the 1960s and its expansion since then. I then proceed to discuss the current structure of the courier sector with a stress on the highly competitive environment in which it exists. After this, I examine the role that consumers of courier services have on the market. I conclude with an account of how

workers and CUPW organizers view this sector, with a focus on how the cutthroat competition among firms in this sector contributes to messengers' employment being precarious.

A Brief History of Courier and Postal Services

Courier and postal services have existed for a long time, essentially dating back to the invention of writing, and arose out of the need for humans to communicate and exchange information with others who were not immediately present (Sage 2001). The first state postal services developed in the ancient empires of Egypt, China, Persia, and Rome where the ruling class used them for dispatching official orders and decrees and receiving strategic information in order to maintain control over the population and their vast landholdings. For the rest of the population, the first delivery services for transmitting correspondence were only available through private couriers. States originally developed postal systems to meet their own strategic and military interests, and not as a public service to the general population. Those who wanted to communicate with others across distances relied on private courier services. The part of the population who could afford the services offered by private couriers, however, was generally restricted to wealthy individuals, such as merchants and lawyers, and to institutions, such as banks and universities. During the early Middle Ages in Europe, most empires, kingdoms, city-states, and other political units also began to develop their own postal systems; however, private courier services continued to operate as

these postal systems attended exclusively to official business (Scheele 1970; John 1986).

Some private courier services—such as Thurn and Taxis, which was established in Italy in the fourteenth century and operated throughout Europe for over four hundred years—were quite profitable. Private couriers, such as Thurn and Taxis, amassed great fortunes and became quite powerful economically and politically. Realizing the profitability of private courier services, from about the fifteenth century onwards, state postal systems in Europe began offering postal service to the general population as a means to increase state revenues. States attempted to displace private courier services with their own postal services, and they often justified their takeover and monopolization of these services under the pretext that only the state could transport correspondence securely and at regulated rates (Scheele 1970; Adie 1990). However, the security of the mail was somewhat suspect; citizens' letters could be subject to inspection and scrutiny by state officials. In England, for example, the possibility to surveil subversive activities was among the justifications for allowing the general population access to the postal system (John 1986). From the fifteenth century onward, some European states continued to permit the operation of private couriers, while other states completely monopolized mail service. By the late nineteenth century, all governments in Europe had monopolized or at least attempted to monopolize postal services, especially the circulation of letters, and curtailed the activities of private

couriers. European states also extended their postal monopolies to their colonies, as the French and British did in Canada (Scheele 1970).

Before the establishment of state-provided postal services in British North America and New France, private couriers also delivered letters and correspondence throughout North America, and merchant ships transported correspondence to and from Europe. The postal system developed slowly in Canada and this left many areas of the country either underserviced or with no service at all. Private couriers took advantage of this situation and delivered correspondence and other goods to underserviced areas where there was a sufficient demand and a profit could be made (Smith 1973; Adie 1990). The first record of a private courier delivering mail in New France is the Portuguese-born Pedro Da Silva in 1693. Da Silva began as a private courier delivering letters and other correspondence between Montreal and Quebec City, and he gained a reputation for being quick and able to make his deliveries in any sort of weather. In 1705, he was named the first official courier of New France, at which point he also began to deliver government dispatches and other official correspondence (Alpalhao and Da Rosa 1980). The French were the first to set up postal services in Canada in 1734 and had built a postal road between Montreal and Quebec City to facilitate these services. However, in 1760 with the British conquest of New France, the British took over postal services. Until 1851, the British Post Master General operated and controlled mail services in Canada. At that time, Britain relinquished control to the provinces (Scheele 1970; Osborne and Pike 1988).

In 1867, with the founding of the Canadian state and the passing of the *Canadian Post Office Act*, the federal government took over control of postal services. The government of the time claimed that the Post Office's purpose was to assist in fostering national communication and nation-building (Scheele 1970; Osborne and Pike 1988). While there were other means to communicate—such as through the telegraph system invented in 1846 and later through the telephone system introduced in 1880—these were, for most of the population, prohibitively expensive. The postal service provided a relatively inexpensive means for the general population to communicate. Postal services were presented as a public good and a national service that should be universally accessible. By the end of the nineteenth century, the postal service was seen as vital to the social, political, and economic well-being of communities across Canada (Osborne and Pike 1988).

Even with the eventual expansion of the postal system to all of Canada, the services that the Post Office offered continued to be limited, and private couriers continued to operate and deliver correspondence and parcels in Canada into the early twentieth century. During this time the state monopoly over letter mail became more strictly enforced. With a more stringent enforcement of the monopoly, private courier firms were consigned to delivering packages and parcels and were cut out of the delivery of letters and other correspondence. However, as long as the demand for the delivery of correspondence and other items is not met by the state postal service,

private couriers will step in and provide that service while the state will do little to impede their operation (Adie 1990).

Post-1960s Development of the Courier Sector in Canada

The more recent development and expansion of the private courier sector, beginning in the 1960s, needs to be situated within the processes of corporatizing the Post Office and liberalizing and reregulating the postal sector in Canada. These processes, along with changing market demands for quicker delivery services that developed with just-in-time business practices in both the manufacturing and service sectors, have facilitated the continuing growth of the private courier sector and a demand for courier services (Canel et. al. 2000; Taylor and Hallsworth 2000; Bickerton 2006).

In response to the needs of businesses for expedited delivery of documents, parcels, and packages that the Canadian Post Office was not in a position to provide, the private courier sector in Canada grew quickly in the 1960s and expanded even more rapidly in the 1970s. In the early 1960s, the Post Office was still the dominant parcel and package delivery provider and monopolized the delivery of letters. Nevertheless, the range of services that it offered was limited: express delivery services for letters, parcels, and packages were lacking in particular. The Post Office had the goal of second-day delivery within major metropolitan areas; however, this target was often not met. In the 1960s and 1970s, the delivery of first class mail by the Post Office was seen by many business users as deteriorating, and these users began to

lose confidence in the ability of the Post Office to deliver critical correspondence, documents, parcels, and packages in a timely manner (Schumiatcher 1970; Silversides 1981; De Mont 1987 & 1987a; Aide 1990). Upstart courier firms took advantage of this growing market demand for fast and reliable service. The courier firms that went into business during this period were able to deliver time-sensitive documents, parcels, and packages quicker and more dependably than the Post Office. Indeed, the courier sector was founded and continues to operate on the basis of *speed* and *guaranteed* delivery times (Silversides 1981; Romain 1992; Osborne and Pike 1998; Breininger 2010a).

Bicycle messengers emerged in the late 1970s as traffic congestion in the downtown business districts of cities, such as Toronto, became a growing impediment to quick delivery by motorized vehicles. As businesses began to demand quicker delivery services and as traffic congestion became worse, the number of bike messengers mushroomed and reached its peak in Toronto in the 1980s with an estimated four to five hundred workers. Bike messengers can take advantage of spatial gaps that users of larger vehicles cannot navigate, and can, therefore, generally make deliveries much quicker than automobiles in traffic congested cities (Mitchel 1988; Romain 1991; Stackhouse 1991; Stewart 2004).

The occupation of bike messenger, however, is not exactly a new one and a similar occupation dates back to the 1850s. In the United States, telegraph companies employed messenger boys to deliver messages to both business and residential

customers by bike. The telegraph companies realized that these messengers could be used for a range of delivery services; they were also employed to deliver legal documents, machine parts, film, and other items that needed to be moved quickly across a city (Downey 2002). In the late nineteenth and early twentieth centuries, messenger boys delivered telegrams, documents, and other items in Toronto. Numerous advertisements appeared in the *Toronto Daily Star* offering delivery service by bicycle for letters and parcels. Its Help Wanted section also had frequent advertisements for messenger boys. *The Star* also had articles detailing the type of work that messenger boys did and the valuable service they provided to the residents and businesses in Toronto (Toronto Daily Star 1902). Telegraph messenger boys continued to be employed in Toronto until just after World War II, when the telegraph system became obsolete (Hendry 2004).

To understand the expansion of the private courier sector, it is important to take into account the turbulent times that the Post Office was experiencing in the 1960s, 1970s, and 1980s. Strikes by postal workers during these decades resulted in the frequent disruption of postal services and contributed to the perception, especially among business users, that the Post Office was undependable. The numerous strikes also added to the impression that the Post Office was in a situation that was out of control. Business users of the postal service complained that they lost millions of dollars in business during postal strikes, and they lobbied for alternative delivery systems and an end to the Post Office's monopoly to deliver letter mail (Picton 1970;

Schumiatcher 1970; MacFarlane 1981; Block 1989; Osborne and Pike 1998). Each time there has been a postal strike or lockout since the 1960s, including the one in 2011, private courier firms have reported an upsurge in business. They also claim that they have been able to hold onto many of the business customers, who were hesitant to go back to using the postal service. The hostile labour relations at the Post Office and then later at Canada Post resulted in many work stoppages. This situation had a central part in creating a demand for private courier services (Picton 1970; York 1981; Mahood 1991: Pailliez 2011; Rubin 2011).

Some critics suggest that the Post Office's inability to make its operations more efficient and reliable is because of the activities of CUPW and the self-interest of postal workers (MacFarlane 1981; Iacobucci 2007; Veldhuis and Lamman 2009). Postal workers and their union have often been targeted for criticism by those who want to privatize the postal service and liberalize and reregulate the postal sector. In the 1970s, CUPW's confrontational stance made it an easy target for advocates of privatization. After being coaxed by a journalist in 1978, the union president at the time, Joe Davidson, stated "to hell with the public" if they did not support the strike (Davidson and Deverell 1978: 168). This statement certainly did not help postal workers to garner much public sympathy. Postal workers and their unions, however, had a different perspective on the reasons why the Post Office was inefficient and unable to adapt to changing market demands. According to postal workers and their unions, incompetent and autocratic management of the Post Office led to much worker

discontent and low morale in the workplace. It was this, and not the intransigence of the postal workers and their unions, which created an inefficient Post Office unable to adapt to changing market demands for expedited delivery services. The functioning of the Post Office and the related development of the courier sector thus cannot be understood without taking into account the intense conflict between postal workers and their unions and the Post Office management (White 1990; Bickerton and Clark 2002).

The rapid expansion of the private courier sector in Canada in the 1970s can thus be seen as a result of the perceived unreliability of the public postal service, as well as its inability to adapt to changing market demands. However, the types and quality of services that the Post Office was in a position to offer at that time must also take into account its grim financial situation. The Post Office was cash poor and undercapitalized, which ultimately hindered its ability to develop new services and compete with private courier firms. The Post Office was not well positioned to perform in this fast-growing and competitive market for express delivery. Its initial effort in this area, with the establishment of Priority Post in 1978, developed slowly and turned out to be an expensive undertaking (Osborne and Pike 1998; Lakshman 1990; Campbell 2002). The Post Office established Priority Post when it realized that private sector courier firms were doing quite well in the market for express delivery services. The establishment of Priority Post was also an attempt to win back the business customers who had switched to private couriers after the 1978 postal strike (Davidson 1979; Austen 1981).

The dramatic growth of private courier firms, beginning in the 1980s, also needs to be situated within the process of corporatizing the Post Office, which led to the establishment of the Canada Post Corporation, as well as the process of liberalizing the postal and courier sectors (Osborne and Pike 1998; Campbell 2002; Bickerton 2006). Postal reform has been on the political agenda in Canada since the 1960s. Attempts were made in the late 1960s and the early 1970s to reform the Post Office, but it was not politically feasible at that time. However, in the early 1980s, as a result of staggering deficits, continual strikes, and deteriorating service, a general consensus developed that the Post Office had to be reformed. With large fiscal deficits and with other government priorities in terms of spending, the federal government's continued subsidization the Post Office became politically untenable. In 1981, the Trudeau Liberal government introduced Bill C-42 and with the passing of this bill—the *Canada Post Corporation Act* (*CPCA*)—the Post Office was transformed into the Canada Post Corporation (Campbell 2002).

CUPW and the Letter Carriers Union of Canada, which merged with CUPW in 1989, were also part of the consensus to transform the Post Office. If the Post Office became a crown corporation, for CUPW, it meant that it would no longer be bargaining under the restrictive *Public Service Staff Relations Act* (*PSSRA*). Under the *PSSRA*, many matters simply could not be brought to the bargaining table; however, with Canada Post as a crown corporation, the *Canadian Labour Code* became the applicable legislation. This meant that more issues, such as expanding services to

create more employment opportunities and increase Canada Post's revenue, could now at least be brought to the bargaining table (Lee 1990; Janzen et al. 2001). CUPW has been somewhat successful in its negotiations with Canada Post to develop new services or expand existing ones. However, as is the case with any type of negotiations, unions do not always get what they want and Canada Post management dismissed many of CUPW's proposals, such as establishing same-day delivery services in major urban centres (Lee 1990; Campbell 2002; Clark and Bickerton 2002). Since it became a crown corporation, Canada Post, under pressure from successive federal governments, has also contracted out and privatized aspects of its operations in order to further reduce operating costs. While CUPW has not been successful in completely stopping contracting out, it has been able to mount effective resistance to at least halt some parts of Canada Post's agenda (Lee 1990; Tufts 1998; Janzen et al. 2001).

For the Tredeau Liberal government, the goals of corporatizing the Post Office and turning it into the Canada Post Corporation were to encourage it to develop a more commercial orientation, become more competitive with private sector courier firms, become financially self-sufficient, improve services, and amend labour relations. The new Canada Post Corporation was to maintain its social objectives, particularly its universal service obligation to deliver letter mail across the country at a uniform price, while simultaneously acting in a business-minded and profit-oriented manner. The universal service obligation is one of the justifications for allowing Canada Post to

maintain its exclusive privilege over the delivery of first-class mail and is an important distinction between postal and courier services. Despite providing similar services, public postal operations have a universal service obligation, whereas courier firms have no such obligation. According to some, this universal service obligation should mark a clear line between postal and courier services (Campbell 2002; Plummer 2005). Since there is no universal service obligation for courier firms, these firms have concentrated on providing the more lucrative express delivery services to businesses and other institutions concentrated in large urban areas, such as Toronto. Since neither Canada Post nor any courier firms have an exclusive privilege, competition for this business is quite intense (Haider 2009; Canadian Courier and Logistics Association 2010).

With the election of the Mulroney Conservative government in 1984, there was an accelerated push to further corporatize Canada Post. The Conservative government was more concerned with advancing the commercial objectives of Canada Post as opposed to its social ones. The government pressured Canada Post to introduce cost-cutting measures, rationalize its services, increase productivity, and take a more aggressive stance towards labour relations (Campbell 2002). Throughout the 1980s, the corporatization of Canada Post proceeded further and the postal and courier market underwent further reregulation to allow for more competition. In the 1980s, multinational courier firms, such as UPS and FedEx, aggressively expanded their operations into Canada. The Canadian government also encouraged Canada Post to

focus more of its attention on entering the competitive markets of express mail and parcel delivery; to this end, it encouraged Canada Post to acquire Purolator Courier in 1993. The purchase of Purolator made Canada Post one of the largest players in the overnight and second-day courier market. Private sector courier firms, such as UPS and FedEx, challenged this acquisition before the National Transportation Agency and the Competition Bureau, but they were ultimately unsuccessful in preventing it (Hallsworth and Taylor 1999; Campbell 2002).

The delivery of parcels and packages was not regulated under the *Post Office Act* (*POA*) or by the *CPCA*, while the delivery of addressed letter mail or first-class mail was and continues to be. Until 1981, Canada Post had exclusive privilege to deliver addressed letters weighing less than fifty grams. Since then, private sector courier firms can legally operate in the market for the delivery of addressed letter mail, as long as they charge at least three times the rate of Canada Post and the letters are of a time-sensitive nature. The stipulation states that the exclusive privilege does not apply to: "letters of an urgent nature that are transmitted by a messenger for a fee at least equal to an amount that is three times the regular rate of postage payable for delivery in Canada of similarly addressed letters weighing fifty grams" (*CPCA* 1981). After the passage of the *CPCA* in 1981, the number of courier firms offering delivery of documents, as well as parcels and packages, surged again. The number of courier firms going into business in the early 1980s surpassed that of the 1970s (Silversides 1981; Adie 1990).

Before 1981 and the passage of *CPCA*, courier companies that delivered addressed letters and correspondence were technically operating illegally in contravention of the *POA*. However, what was actually considered a letter was somewhat vague in the *POA* and this left some room for private sector courier firms to contest what actually constituted the scope of the Post Office's monopoly (Silversides 1982; Campbell 1993). As an anonymous representative of an unnamed courier firm in Toronto stated: "nobody can carry mail but the Post Office. Once the stamp is on, it is the Queen's property. We just don't put a stamp on it" (quoted in *The Globe and Mail* 1971: 25). Because of the unclear scope of the Post Office's monopoly and dissatisfaction with the postal service by business users, enforcement of the *POA* was often lax. Additionally, because legal action against them was a possibility, most private courier firms tended to keep a low profile and were reluctant to openly discuss their delivery of correspondence. Nonetheless, there were some courier firms that did openly advertise their document delivery services in the classified sections of newspapers like *The Globe and Mail* and *The Toronto Star* (Picton 1970; Schumiatcher 1970; Sidak and Spulber 1997).

The exclusive privilege stipulation in the *CPCA* requiring private couriers to charge at least three times the rate of Canada Post for the delivery of urgent documents and letters confirms and also sanctions the existence of private couriers operating in Canada (Osborne and Pike 1988; Campbell 2002). The exclusive privilege stipulation of the *CPCA* was and remains contentious. There was controversy over what exactly

constituted a letter in the original *CPCA*, which led to an amendment of the Act in 1983. In the debates surrounding the amendment, Canada Post favoured and advanced a broad definition, which would have greatly expanded the scope of its monopoly, while business interests lobbied intensively for a less restrictive definition. Business interests claimed that Canada Post's proposed definition would have made many established business practices illegal. The government sided with business interests and exempted many of the types of documents that courier firms typically deliver from Canada Post's monopoly (Galt 1982; Silversides 1982; Department of Justice 1983; Campbell 1993).

Nevertheless, despite its exclusive privilege over a certain area of mail delivery, Canada Post does not appear to zealously enforce its monopoly. Courier firms have delivered documents for less than three times the rate that Canada Post charges and have not been prosecuted (*Toronto Star* 1987; Sidak and Spulber 1997). According to one bike messenger—Sarah—not charging three times the rate of Canada Post remains a common practice in Toronto, especially with the volume discounts that courier firms often offer clients. Other research on the same-day courier sector in Toronto also reveals that not charging the legal minimum required by the *CPCA* is a common enough practice (Pupo and Noack 2010).

There have been calls by organizations representing private interests—such as the Coalition of Canada Post Competitors and the Canadian Courier and Logistics Association—to completely eliminate Canada Post's exclusive privilege, suggesting

that courier firms could do the work of Canada Post more efficiently and for a lower cost. These organizations have also accused Canada Post on multiple occasions of abusing its exclusive privilege to subsidize its activities in competitive markets, such as the market for parcel delivery (Sinclair 2001; Campbell 2002; Bickerton 2006). In terms of think tanks, the Fraser Institute and the C.D. Howe Institute have been among the leading proponents for the outright deregulation of postal markets and the privatization of Canada Post (Adie 1990; Iacobucci et al. 2007; Lamman and Veldhuis 2009). The courier sector continues to grow and evolve. Even with the economic downturn in 2008, during which courier firms also experienced a slump in business, there is still a substantial market for courier services in Canada. As one industry watcher suggests, when economic conditions improve so should the health of the courier sector (Breininger 2010a).

Finally, developments in information and communication technologies have affected the courier sector. With the introduction of fax machines in the mid-1980s and then email in the 1990s, many documents that courier firms once delivered can now be moved electronically and this has cut into the business of courier firms (Romain 1992; Noakes 1995; Doole 1996). However, signatures on original hard copy documents are often still a legal requirement. Having printed copies of critical correspondence is a standard practice for many businesses and institutions. Blueprints and graphic designs can often be too large to be sent electronically. Video cassettes, DVDs, film, clothing, medicine, and numerous other items also still need to be delivered physically. Despite

technological advancements, there is still and will likely continue to be a need for the physical delivery of correspondence, in addition to other items that courier firms typically deliver. Even in the age of instant communications, where information can be sent at the speed of light, some forms of information still need to be moved physically (Kidder 2004; Wehr 2006).

The Size of the Courier Sector in Canada

The courier sector in Canada is quite large. There are approximately 2,400 courier companies in operation, ranging from individual owner-operators and small firms with a few workers to large national and multinational corporations with tens of thousands of workers. In 2008—the most recent figures available—courier firms in Canada collectively generated $8.7 billion in revenue (Statistics Canada 2010; Canadian Courier and Logistics Association 2011). The courier sector can be split into firms that are operating in the core and those operating in the periphery. Same-day courier firms occupy the periphery of the courier sector. Large national and multinational corporations, such as UPS, FedEx, DHL, and Purolator, dominate the core of the sector (Monterio 2003; Courier Research Project 2005). In 2008, the courier firms operating in the core generated $7.2 billion in revenue—or ninety percent of the total—and handled about eighty percent of the volume of deliveries (Statistics Canada 2010). These firms specialize in overnight, next-day, and second-day deliveries, and service local, regional, national, and international markets. Companies, such as UPS,

FedEx, DHL, and Purolator,[11] have large distribution networks and can organize deliveries efficiently to maximize worker productivity. Workers generally have predictable routes and workloads. Most workers in this segment of the courier sector are treated either as employees or dependent contractors, but some are also hired as independent contractors. While the terms and conditions of employment at these companies are generally inferior to those at Canada Post, a significant number of these workers are unionized and receive decent pay and benefits (Courier Research Project 2005; Briney 2008; Pupo and Noack 2010).

The periphery of the courier sector is made up of smaller same-day courier firms who operate almost exclusively in local or regional markets. These firms tend to be smaller-sized enterprises. There is a paucity of information on the structure of the same-day local courier sector due in part to limited official statistics—which Statistics Canada began collecting in 1997 and then discontinued in 2008—and the highly competitive nature of the sector, which encourages firms to be secretive (Sage 2001; Monterio 2003; Breininger 2010; Statistics Canada 2000 & 2010). In 2008, same-day courier firms were responsible for about twenty percent of the total volume of deliveries. The total revenue for courier firms in the periphery in 2008 was $1.2 billion or ten percent of the overall revenue. Despite having a small share of the overall market, the market for same-day courier services has grown over the last decade. Between 1997 and 2008, revenues have increased by about seventy-five percent

[11] Purolator has also introduced same-day delivery services within select urban areas; however, it can be considered a marginal part of their overall business operations (Breininger 2010).

(Statistics Canada 2000 & 2010). Nationally, same-day local courier firms currently make approximately 374,000 deliveries per day. The Greater Toronto Area (GTA) is the largest market for same-day courier services, with an estimated 130,000 deliveries per day. In downtown Toronto, same-day courier firms deliver approximately 80,000 letters, parcels, and packages per day (IHM 2009; Breininger 2010). The number of same-day courier firms in the GTA is considerable where approximately one-hundred and eighty same-day courier firms compete for the available business (Pupo and Noack 2010).

There are a variety of firms operating in the same-day courier market, ranging from individual owner-operators and small family-run businesses employing a few couriers to slightly larger firms employing upwards of fifty workers. The periphery of the courier industry can be described as being dominated by small and relatively inefficiently run firms, especially in comparison to the firms operating in the core, such as UPS, Purolator, and FedEx (Bickerton et al. 2010; Breininger 2010). Because the overhead costs of entering the periphery of the courier sector are relatively low, there tends to be an oversupply of same-day courier firms in many Canadian cities, particularly Toronto. Large distribution networks and expensive technology are not necessary to operate a same-day courier firm, meaning there are few barriers to enter this market (Courier Research Project 2005; Bickerton et al. 2010). As some have suggested, a small same-day courier firm can be launched on a shoestring budget (Wallin 2010). Because of the relative ease of starting a courier firm, there are many

firms clamouring for the available business and this has led to a highly competitive sector with delivery costs being the primary means on which to compete (Pupo and Noack 2010; interview with Mark).

Consumers of Courier Services and their Impact on Market Dynamics

An examination of the structure of the courier market must also take into account the relationship between the consumers of courier services and the courier firms. The former can exercise considerable power over the latter. Since there tends to be an oversupply of same-day courier firms that are all clamouring for a finite amount of business, the market for these courier services has been described as a buyer's market. The consumers of these services can exercise considerable power in determining delivery rates. As one commentator puts it: "it's a competitive industry and the customer is king" (quoted in Chase 1992: C1). Consumers of courier services can be selective of who they choose and can pressure courier firms to lower their rates or keep them low. This is especially the case during economic downturns, as businesses become more conscious of operating expenses. Courier services are often prime targets for cost-cutting measures. Competition, along with periodic economic downturns, has forced courier firms to keep prices low in order to retain their market share (Chase 1992). Mark, one of the campaign coordinators, describes the dynamics of competition in the sector. He notes:

> The rate is the only thing that [the courier firms] fight on really. They do say that they try to offer better service, but mostly it is the rate. And then they

> get into a price war. There is practically no regulation in the industry so they keep on cutting prices. It goes down; it goes down; it goes down, and now everyone is working for nothing and you can't get your rates up because if you have your rate at a reasonable amount your competitor will come in and say: 'I can do the work faster and for thirty percent less.' Your client will come back to you and say: 'this guy can do it for thirty percent less.' So you're stuck doing it for thirty percent less or losing the client. And that's pretty much what is dragging everything down. They undercut and that is what has kept the rates so incredibly low.

As long as companies are in direct competition for clients, lowering prices will likely remain the basis on which to compete. With the highly competitive structure of the same-day courier sector and with the ability of new upstarts to enter into the sector with relative ease, maintaining decent rates is difficult for same-day courier firms. Marginal firms operate by undercutting rates (Pupo and Noack 2010). As one bike messenger, Erica, puts it: "there is always some sleazy scumbag company that will do really low rates and undercut everyone else." Some means of disciplining marginal firms, such as the one that Erica describes above, is necessary.

Consumers of courier services can intensify competition among courier firms to their own advantage. In the struggle between firms to maintain existing business or win new business, it is the consumers who win through price wars. The courier firms, but even more so the messengers, end up being the losers. Large consumers of courier services can also insist on volume discounts. If a large consumer of courier services, such as a bank, can guarantee a certain volume of business to a specific courier firm, it can and often does insist on a substantial discount in return. To keep clients or gain new ones, courier firms are often compelled to give additional discounts (Tausz 1991

& 1992; Haggett 1992; Noakes 1993; Pupo and Noack 2010). Courier firms win or lose business based on their ability to reduce rates. In the past, when courier firms have attempted to increase rates, consumers resisted and the courier firms quickly acquiesced and reverted back to the old prices (Tausz 1991 & 1992). As in the markets for other business services, the consumers of services have considerable influence over the rates that are charged. They can easily switch to other service providers if a certain firm's rates become too expensive, or if another firm offers their services at a cheaper price (Howely 1990; Milkman 2006). Because messengers are treated as independent contractors, many of the risks of doing business in this sector can be transferred onto workers. The impact of this competition on workers, especially their income, is addressed in the following section.

Workers' Views on the Same-Day Courier Sector

As workers' experiences attest, the predatory price wars in which courier firms engage negatively impact the amount of income messengers can earn. Competition through undercutting other firms' delivery rates appears to be the norm in this sector, and the negative impact of this competition is borne by messengers (Pupo and Noack 2010). Eric, for example, notes:

> We are the wild west of industries as far as it goes right now. There are no regulations, no rules. It is a race to the bottom in terms of rates in the city. Courier companies are undercutting each other and there's no way of regulating that. It doesn't really cut into what [the courier firms] take home at the end of the day, but it directly affects the working messengers.

Cutthroat competition can often be ruinous and can undermine the profitability of an entire sector. The ways in which same-day courier firms tend to compete is not sustainable in the long run (Stewart 2004). Phil, who also sees the courier sector as highly competitive, stresses the short-sightedness of many courier firms' business strategy. He comments: "the way the marketplace is now is that everyone is undercutting everyone to the point where we will render ourselves extinct...It is not run by particularly intelligent business people. He is charging a buck so we'll charge $0.50. What's the point?" Competition among firms in the same-day courier sector has resulted in an unstable product market and has encouraged a race to the bottom in terms of rates. Same-day courier firms appear unable to set or stabilize rates in the sector so that workers can make a decent living. The same-day courier sector has no formal structures in place to uphold or stabilize the value of its services. Courier firms appear to act only in their own interest and as a result, they undermine the general interest and profitability of the entire sector (Stewart 2004). Since workers in the same-day courier sector are treated as independent contractors, much of the economic risk of such competition is transferred away from same-day courier firms and placed onto workers (Courier Research Project 2005; Pupo and Noack 2010). If a substantial number of courier firms were unionized, courier firms might be compelled to raise delivery rates (Gordon 1999). So far in Toronto, this goal has been elusive.

Competition is not the only factor driving down messengers' income. In the periphery of the courier industry, there is also a tendency for companies to have more

messengers on hand than necessary to maintain quick service during peak periods. This too places a downward pressure on messengers' income. As it is a sector based on speed and guaranteed delivery times, being able to respond instantly to a client's request is central to the operation of many same-day courier firms. The way that this demand is currently being met is by having workers spread around the city to cover all bases. Since there are no fixed costs with using independent contractors, there are no economic incentives for courier firms to limit the number of workers. It is also through over-hiring that workers bear the brunt of same-day courier firm's business practices (Stewart 2004; Courier Research Project 2005; Pupo and Noack 2010). As Eric suggests:

> Some companies over-hire, because as independent contractors, it doesn't cost them anything to hire a biker. And sometime they're even profiting off the radio fees that they charge. They can cover more ground and have all their bases covered while the couriers are making less money. The work gets spread over more people.

Since there are a finite number of deliveries to be made, over-hiring drives down the income messengers can earn; however, since workers are paid on a piece-rate basis, it does not impact a courier firm's bottom-line. As Sarah states: "it doesn't affect the company itself. They can hire a hundred people and if a hundred people do one call each they are making just as much profit even though a hundred people are only making $5 each." Same-day courier firms justify their over-hiring practices because they want to maintain coverage in order to meet customers' expectations to have documents, packages, or parcels delivered on demand within a guaranteed timeframe.

Coverage means having enough messengers scattered throughout the city so that as soon as a client requests a delivery, a messenger is available to pick it up immediately. Derrick explains: "the companies are like: 'we want to provide coverage.' Well if you want to provide coverage, and if you want to have a bunch of people waiting around, their time should be compensated. Companies will hire a couple of extra riders just for coverage." If a courier firm wants to keep its clients, it needs to have messengers readily available to make a delivery whenever a client makes a request. Because a client might cancel its account if a courier firm fails to deliver a document, package or parcel on time, the pressure to have extra workers on standby is quite strong. Ultimately, it is the messengers who suffer because of the way the sector is organized (Stewart 2004).

Conclusion

Because there is a demand for express delivery services that Canada Post does not appear to be in a position to provide, private courier services are likely to continue to exist. The state seems unlikely to be able to or to even want to take over the physical delivery of all correspondence, as well as parcels and packages. With neoliberalism being the mantra of the day, governments tend to promote markets in order to meet the needs and wants of consumers instead of public services. While technology has cut into some of the business of same-day courier firms, there is still much information that needs to be moved physically and the demand for express delivery of documents

remains strong, especially in major urban centres. As a same-day courier firm can be established with relatively little start-up capital, there are many firms clamouring for the available but finite amount of business. Apart from the stipulations of the *CPCA*, requiring courier firms to charge at least three times the rate that Canada Post does for the price of a first-class letter, the same-day courier sector remains unregulated. Moreover, it also appears that the *CPCA* is not stringently enforced as there are some courier firms who do not charge this minimum price for their deliveries. With the current structure of the same-day courier sector, the race to the bottom is likely to continue, unless there is some sort of intervention. Municipal government intervention may be one option. Municipal governments could regulate delivery rates in a manner similar to that of taxi services (Stewart 2004). Unionization is another way to regulate delivery rates in this sector. Historically, in industries with similar structures, unionization helped regulate the market and limit some of the cutthroat competition. Multi-employer contracts, for example, can help reduce competition by stabilizing labour costs and disciplining the firms operating on the margins of the market (Cobble 1991 & 1994; Gordon 1999). Left alone, however, it appears that cutthroat competition will continue to plague this sector, which means workers will likely continue to be precariously employed and working under a disguised employment relationship. Having discussed the development and structure of the same-day courier sector, I now move on to examine the working conditions of bike messengers in Toronto.

Chapter Five:
Messenger Work and Employment Status

Introduction

This chapter presents an analysis of messengers' relationship with the courier firm for which they work in order to assess the legitimacy of their status as self-employed. As we saw in the previous chapter, same-day courier firms in Toronto operate in a highly competitive market environment with firms competing primarily on costs. Courier firms are also labour-intensive operations, and one way for them to reduce operating costs and remain competitive with other firms is to treat their workers as self-employed, specifically as independent contractors, instead of as employees. A commercial relationship replaces an employment relationship, and a fixed labour cost turns into a variable one. Hiring workers under the legal status of an independent contractor is pervasive in the same-day courier sector in Toronto and throughout Canada. Yet, an analysis of messengers' relationship with the courier firm, their labour process, and the organization of their work, reveals that their self-employed status entails a misclassification (Bickerton and Warskett 2005). Their working relationship is barely distinguishable from dependent and subordinated employment. Messengers are, accordingly, disguised employees (Bickerton and Warskett 2005; Frade and Darmon 2005; Kansikas 2007).

In this chapter, I argue that messengers are more akin to employees than self-employed entrepreneurs running independent businesses. Messengers' work situation is far from the ideal type of self-employment—entrepreneurship—and can be more

accurately described as dependent and subordinated employment (Davidov 2002; Vosko 2010). Messengers are a marginalized group of workers who have limited bargaining power in the labour market; because of this, there are fewer impediments for their employers to misclassify these workers as self-employed. Due in large part to their disguised employment, they constitute an exploited and precariously employed workforce. Moreover, given the power relations and the structure of the same-day courier sector, messengers are individually not in a position to demand an actual employment contract, let alone negotiate for better terms and conditions of their commercial contract.

A significant number of workers are routinely misclassified as self-employed, often as independent contractors, by their employers. As in other countries, the concern over disguised employment is well founded in Canadian labour markets (Lowe and Schellenberg 2001; Davidov 2002; Bickerton and Warskett 2005; Fudge 2006). As some research suggests, at least twelve percent of individuals who are solo self-employed in Canada may be in disguised employment relationships (Lowe and Schellenberg 2001). Disguised employment can be defined as a form of paid work where workers are treated as if they are self-employed, often classified legally as independent contractors. However, the relationship with the firm, which pays a worker for furnishing a good or producing a service, has all the trappings of a subordinate and dependent employment relationship, and none of the benefits traditionally associated with self-employment, such as more independence, control, autonomy, and the

potential to earn a higher income (Bögenhold and Staber 1990; Stanworth and Stanworth 1995; Davidov 2002; Bickerton and Warskett 2005; Frade and Darmon 2005; ILO 2006). Disguised employment can result from either employer ignorance of labour and employment law or a deliberate strategy used both as a cost-saving measure and to thwart the possibility of worker organizing (Langille and Davidov 2000; OECD 2000; Davidov 2002; Bickerton and Warskett 2005; McClelland 2012). Disguised employment tends to be more rampant in highly competitive and labour intensive sectors where the work is constructed as low-skilled or unskilled, and where there is also an oversupply of workers (Hiatt 1995; Courier Research Project 2005; Huws 2010).

This chapter begins by examining the organization of the labour market in the same-day courier sector. The next section discusses why people enter this occupation despite knowing beforehand that it is a precarious form of employment. Following this, I examine turnover rates and employment tenure in the same-day courier sector and their impact on labour market dynamics. The bulk of this chapter, however, is dedicated to examining messengers' purported status as self-employed. I focus on control over the labour process, messengers' relationship with the dispatcher, ownership of the means of production, chance of profit or risk of loss, and the degree of messengers' integration into the business of the courier firm. I end this chapter with a discussion of how messengers understand their employment status with a particular

emphasis on how employee-like they feel, as well as how integrated into and dependent they see themselves on the courier firm for which they work.

The Labour Market for Messengers

To find employment in the same-day courier sector in Toronto means working as an independent contractor. Different labour markets operate according to different rules and regulations (Peck 1996). The occupational labour market for messengers is one that is weakly regulated, permitting same-day courier firms to hire messengers as disguised employees with little opposition. Part of the increase in disguised employment relationships can be attributed to weakening labour market regulations in general, which has accompanied the rise of neoliberalism in countries such as Canada. With neoliberalism, labour markets have become more flexible, making it is easier for employers to hire workers under non-standard employment relationships (Peck 1996; Davidov 2002; Muller and Arum 2004). In some cases, hiring a worker as an independent contractor can be a legitimate means of paying someone for producing a service or furnishing a good. Firms may contract out aspects of the business that are considered to be peripheral to their main activities. Firms may also contract out aspects of their business if they do not have the appropriate expertise in-house (Abraham and Taylor 1993; Kalleberg and Marsden 2005). This, however, is not the case with same-day courier firms. The primary activity of a courier firm is to make deliveries, making bike messengers integral to the courier firm's day-to-day operations. The tasks

messengers undertake—making deliveries—cannot be considered peripheral to the courier firm's main business.

Hiring messengers under the legal status of an independent contractor is a long established labour market practice in the same-day courier sector in Toronto. It is also appears to be the practice throughout Canada, the UK, and the USA (Fincham 2004; Courier Research Project 2005; Wehr 2006; Kidder 2009). Phil, for example, has worked as a bike messenger for almost two decades and with each employer, he has only worked as an independent contractor. As he comments: "independent contractor, always, they make a big deal about it. That's technically what you are, but not really. When it comes down to it, to the actual reality of it all, they treat you like an employee." Messengers who have worked in other Canadian cities, such as Winnipeg and Vancouver, have also only worked as independent contractors (interview with Ian; interview with Sarah). If a worker does not agree to be an independent contractor, he or she will not be hired by a courier firm. Since every same-day courier firm operates in a similar manner, a worker does not have a choice but to work as an independent contractor if he or she wants a job as a messenger in Toronto. Because there is no choice in the matter, the conscious intent of workers to become self-employed needs to be questioned (Courier Research Project 2005; McClelland 2012). While many workers were aware before they started to work as a messenger that they would be an independent contractor, not all were. For some workers, it was disconcerting to find out they were required to work as one. Harry, for example, comments: "I didn't realize

when I was going in that I would be considered an independent contractor. I was taken aback by that." Because he needed employment, he was not in a position to negotiate—let alone dispute—the employment status under which he was hired. To be sure, the notion of choosing self-employment over employment needs to be questioned, especially in the labour market which messengers find themselves looking for work (McKeown 2005; Vosko and Zukewich 2006).

Most messengers sign a contract agreeing that they are independent contractors and that their relationship with the courier firm is a commercial not an employment one. Messengers must acknowledge by signing the contractual agreement that they are independent contractors, with none of the benefits, protections, or rights afforded to employees. Their contracts state that the courier firm does not pay into such things as Employment Insurance, Workers' Compensation, or the Canada Pension Plan. It also states that workers do not receive statutory holiday or vacation pay. A contract stating that someone is an independent contractor, however, should not make that person an independent contractor when the substance of the work relationship indicates otherwise. In many cases where workers are working under the legal status of an independent contractor, the written contractual agreements do not reflect the reality of the relationship between workers and the firms for which they work. This is the case for messengers in the same-day courier sector. Indeed, it is the substance of the work relationship and not how it is labeled or what is contractually agreed to that should be

central to determining what a worker's employment status should be (Linder 1989; Fragoso and Kleiner 2005; McClelland 2012).

While some messengers sign contracts, other messengers only have verbal agreements with the courier firm. When they begin working for these firms, messengers are told that they are independent contractors and that they are paid a commission for each delivery. Some same-day courier firms also operate on an under-the-table basis, do not keep any records, and pay workers in cash. It is these latter fly-by-night employers who also tend to offer the most precarious employment (interview with Paul). Whether they signed a contract agreeing to be independent contractors, verbally agreed to be independent contractors, or are paid under-the-table, messengers who try to contest the terms and conditions under which they are hired would likely be quickly deemed as troublemakers and find themselves on the dispatcher's blacklist. Being blacklisted means they will be given fewer and fewer or lower value deliveries until the amount of money they can earn is so little that workers are forced to quit. Messengers refer to this form of employer discipline as being "starved out" or "not being fed" (interview with Jay; interview with Steve).

Hiring messengers under the legal status of an independent contractor is the modus operandi of the same-day courier sector and the available evidence indicates that same-day courier firms have always operated in such a manner. The same-day courier sector in Toronto mushroomed in the late 1970s and early 1980s. While not indicating the employment status, Help Wanted advertisements for messengers from

this time period in newspapers, such as *The Toronto Star*, state that commission was the form of remuneration, which suggests that messengers in the past, like in the present, were working as independent contractors. Messengers' long-standing employment status is also confirmed in newspaper articles on the same-day courier sector that appeared throughout the 1980s and 1990s (Cheney 1986; Bilodeau 1987; Romain 1992). Telegraph messenger boys—the not-so-distant-cousins of contemporary bike messengers—were also paid on a commission basis for each delivery that they made (*Toronto Daily Star* 1902; Downey 2002). When certain hiring practices are established in a particular labour market, it is often difficult for workers to challenge these, especially marginalized workers, such as messengers, who have limited bargaining power.

The sector at large also promotes and defends the practice of hiring workers as independent contractors. The trade association for the courier sector, the Canadian Courier and Logistics Association (CCLA), maintains that the independent contractor model is critical to the operation of same-day courier firms. In the 1990s, the CCLA lobbied intensively to thwart provincial and federal legislation that would deem messengers employees instead of independent contractors, proclaiming this victory as one of its central achievements. The CCLA argues that, by classifying workers as self-employed, courier firms save "hundreds of thousands of dollars in terms of additional employment related taxes and reporting requirements, plus continued flexibility in addressing unique delivery requirements" (2010). In a highly competitive industry in

which labour costs are the main costs, same-day courier firms have come to rely on hiring workers under disguised employment relationships in order to operate. Individual courier firms have few incentives to change how workers are hired. If one company hires workers as employees and has to incur additional costs, it raises the costs of doing business and, ultimately, it can place the firm in an uncompetitive position (Erlich and Grabelsky 2005). To compete in the same-day courier sector means operating in the same manner as all the other firms.

Why Work as a Messenger

While messenger work is a form of precarious employment, and most messengers are aware of this before they begin working in this occupation, many bike messengers purposely chose this line of work. Bike messenger should not be seen as an employment option of last resort, as some have suggested (Kidder 2011). There is an allure to working as a messenger despite the recognition that it is precarious employment. This is not to say that messengers are precariously self-employed by choice. Bike messengers, for the most part, are bicycling enthusiasts. Many messengers derive considerable satisfaction from bicycling, often equating it with a sense of freedom. Being able to ride a bike and earn an income at the same time is a central reason why many originally pursued finding work as a messenger (interview with Eric; interview with Derrick). Messengers tend to develop a strong occupational

identity, and many come to define themselves in terms of the work that they do (Kitay and Wright 2007; Kidder 2011).

Reflecting on why he started working as a bike messenger, Eric, for example, notes: "I knew the pay was terrible and that the working conditions were pretty bad, but everyone that has ever done it has talked about the sense of freedom when they were doing it and that appealed to me." When discussing what attracts workers to particular jobs, the amount of income that can be earned should not be the only factor taken into account. The intrinsic rewards that an occupation can offer are also important. Derrick also stresses his affinity for biking as one of the main reasons why he started working as a messenger. He comments: "I am a cycling enthusiast. When I started it was like: 'I get paid to bike around'...It is my love of cycling that keeps me going." Many messengers are enthusiastic about riding a bicycle for a living, and this is why many entered and continue to stay in this occupation. However, this sort of enthusiasm can also weaken the labour market position of messengers; as long as there are enough willing workers, employers can exploit worker enthusiasm, continue to hire workers as disguised employees, and pay them poorly. This situation is not unique to the same-day courier sector; other employers, in the cultural sector, for example, have also used worker enthusiasm to keep wages low and working conditions substandard (Tait 1995; McRobbie 2002).

The cultural image of the bike messenger occupation as an alternative form of employment also influenced some individuals to become messengers. Paul, discussing

what attracted him to messenger work, comments: "it's like a really alternative style of working, rebellious, anti-conformist kind of stuff." The values of individualism and autonomy, as well as a sense of being outside of the mainstream or being anti-establishment, are important aspects of many messengers' identities (Fincham 2007a). The cultural image of the messenger as a risk taker and a partier also appealed to some individuals and influenced their choice to enter the occupation. Jay, for example, discusses how these cultural images influenced him to start working as a messenger. He notes:

> I was interested in being a bike messenger. I thought it was a pretty cool job and I needed a job…I thought it would be a lot more wild. When I started I thought that I was going to be a great messenger because I used to mountain bike. I thought it would be imperative to couriering. I thought I would be going down stairs and stuff… Everyone has a preconceived notion that bike messengers are crazy or super-caffeinated, or drunk, or high, or whatever…That's what I thought it was going to be like. I thought it was going to be a party, but it really wasn't.

The bike messenger can be considered an urban icon and the occupation does evoke certain images in people's minds (Culley 2001). Whether or not they are accurate, pre-existing ideas and images surrounding particular occupations do influence why people become attracted to these jobs (Ezzy 1997). Both popular and academic literature depict bike messengers as thrill seekers, who experience adrenalin rushes from taking risks on their bicycles to deliver packages quickly in traffic-congested cities. Their use of alcohol and other drugs is also documented. Autobiographical memoirs, such as Travis Culley's (2002) *The Immortal Class* and Rebecca Reilly's (2000) *Nerves of*

Steel, and movies, such as *Quicksilver* (1986) and more recently *Premium Rush* (2012) reflect these ideas and images of bike messengers. In the academic literature, there are also references to bike messengers as risk takers who like to indulge in alcohol and other drugs (Fincham 2007; Kidder 2011). This is not to say that these cultural ideas and images have no validity. Many messengers take risks as they go about their job and ride their bicycles in ways that non-messengers would likely consider dangerous and reckless. Some messengers recreationally use, and, like other groups of workers, sometimes also abuse alcohol and other drugs, both on and off the job.

Bike messengers tend to be younger workers—most being in their twenties—and younger workers, both men and women, are more likely to find themselves in precarious employment relationships than older workers (Vosko 2006). Some messengers are at a point in life where they are unsure of what they want to pursue in terms of a long term career or occupation. They see working as a messenger as an enjoyable way to earn an income while they attempt to plan their future. Allan, for example, comments: "I thought it would be fun. I just wanted to do it. I thought it would be challenging and fun and something to do while I figured out what else I wanted to do." Young workers may enter precarious forms of employment, such as the bike messenger occupation, because they are not seen as permanent. This is not to say that precarious employment among younger workers should be conceptualized as a stepping stone into non-precarious employment. A significant number of young adults,

especially those without recognized skills, often remain trapped in precarious employment (MacDonald 2009).

Grim life circumstances, such as being a homeless youth, can also impact why certain individuals end up in precarious employment. In the labour market, employers can take advantage of a person's dire circumstances. To be sure, homeless youth have among the least bargaining power out of all workers in a labour market. Homeless youth often end up in precarious employment, if they find work at all (Gaetz and O'Grady 2002; Shier et al. 2012). While it cannot be generalized to the entire working population, bike messenger is an occupation for some individuals who have few other options for generating an income. Steve, for example, explains the situation that led him to messenger work. He notes:

> I hitchhiked [to Toronto] and I didn't have a lot of resources...I was living in a youth shelter. Things were pretty shitty. You don't know who you can trust....I didn't really have very much experience and real decent school shit to go and impress anybody. So I was in the shelter and I saw a poster [of a courier firm looking for workers]. Part of their marketing strategy—the way they brand and spin their shit—is to go and directly hire shelter youth and help them work their way out of the shelter... I got into this, like I said, rather by chance.

While the firm for which Steve worked bills itself as a social enterprise and has helped at-risk youth out of dire circumstances, its terms and conditions of employment are no better than anywhere else in the sector. Messengers are still hired as disguised employees and are poorly paid. On the one hand, offering marginalized and at-risk youth employment opportunities can be seen as a laudable business practice; however,

on the other hand, by hiring homeless and at-risk youth who have few options for otherwise generating an income, employers can largely set the terms and conditions of employment as they wish. This courier firm for which Steve worked also loans newly hired messengers enough money to buy a bike and a messenger bag. This can be understood as a form of debt peonage, tying the worker to the firm until the loan for the equipment is paid off (Goldstein and Hillard 2008). Including a loan to buy the necessary equipment as part of the hiring practice can create a significant degree of dependence on the firm (Davidov 2011). Instead of providing the tools necessary to do the work, making a worker, who is just entering the occupation, buy these tools reduces the operating costs of the firm by shifting the expenses onto the worker. Since the worker is required to buy tools, it also helps to create the impression, albeit a false one, that he or she could be self-employed.

As individuals, messengers have little negotiating power to challenge the terms and conditions under which they are hired. To be hired by a same-day courier firm, workers are compelled to work under the legal status of an independent contractor. Messengers are not in a position to demand an actual employment contract, or better terms and conditions for their commercial contract. An analysis of the labour market for messengers suggests that these workers are in need of protection and are particularly vulnerable to being taken advantage of by their employer. To be sure, the market in which messengers and courier firms meet, when messengers are looking for

work and when courier firms are looking for workers, is a labour market. It is also a market that needs stronger regulations to protect workers.

Turnover and Labour Market Dynamics

Quitting is one way in which messengers can contest the terms and conditions of employment. By quitting, workers, such as messengers, can exercise what limited power they have in the labour market. If workers can find work elsewhere, quitting can be an effective form of resistance. However, if the labour market is tight, quitting is not a particularly effective strategy (Hodson 1995; Tucker 1993). Messengers often switch employers with the hope of earning a higher income elsewhere. Eric's comments on why he quit working for one firm and found work with another firm reflect the reasons why many messengers are often searching for a different employer in this sector. He notes: "their rates were so low. You're doing the work, and you're busting your ass. But because the rates are so low, it just doesn't add up at the end of the day." While employment is precarious throughout the same-day courier sector in terms of uncertainty of income, high risks of ill-health and bodily injury, and limited control over the labour process (Vosko 2006), with some courier firms messengers can earn considerably more income. Indeed, income can range from as low as $30 to as high as $150 per day (interview with Bill; interview with Paul).

After working in the sector for a while and making connections with other messengers, messengers find out which courier firms are better or worse employers.

Messengers help each other avoid the worst employers in the sector; assisting each other to find less precarious employment highlights the importance of the occupational community in messengers' working lives. As Paul comments: "I got hired at a sketchy on-the-spot place and it really sucked, and once I got in there I got more leads and I moved to a much better company within the first few weeks." Messengers draw support from the occupational community to navigate the labour market. While many messengers have an attachment to messenger work, the same cannot be said about an attachment to a particular courier firm. A bike messenger's bout in this occupation is rarely tied to working for one employer. A messenger's commitment to a particular employer often ends as soon as a better offer becomes available elsewhere. As other research suggests, worker loyalty to a particular firm is often low when workers are poorly paid and involuntarily classified as self-employed (Muehlberger and Bertolini 2008). While quitting one job and finding work with another employer can improve the immediate financial situation of a messenger, it does little to alter the overall power relations in the labour market. Quitting certainly does not improve the terms and conditions of employment for the other messengers who remain with that courier firm. Because there are enough eager workers willing to enter and remain in the occupation, employers are able to keep the terms and conditions of employment substandard. Quitting becomes an individualized and not a particularly effective form of resistance.

The high turnover rate in the same-day courier sector also results from messenger work being seen as an occupation that cannot be done for life. After a few years, many

messengers exit the occupation entirely. Bike messenger is a physically intense occupation and it can take a considerable toll on the body. The impact on the body limits how long messengers can realistically spend in this occupation. Casey—who has worked as a messenger for most of the last twenty years and is now in his early forties—notes the impact on his body as he contemplates how much longer he can work in the sector. He comments: "my knees are getting sorer. I think about it more and more each day what I am going to do after this." As messengers age and notice the wear and tear on their bodies, exiting the sector and finding employment in other occupations weighs more heavily on their minds. As in other economic sectors, workers' bodies are destroyed in the making of profits for their employers (Paap 2006). With enough eager workers looking for employment in the same-day courier sector, messengers with damaged bodies can be discarded and replaced with young, healthy bodies fresh from the labour market. Capital requires vigorous and healthy bodies for its labour processes; however, it often enough ends up destroying these bodies as a result (Marx 1976; McNally 2001).

Low income is another reason why messengers exit or at least plan to exit the messenger occupation. Peter—who has been working as a messenger for four months and plans on quitting as soon as he can find other employment—comments: "some of them look like they have been doing it for years. I wonder how they can survive based on what I see myself making. I wonder how people can do it for that long or why they would." The low income and other precarious aspects of employment in this sector

tend to weaken the long-term commitment to the messenger occupation. Sarah, now an ex-messenger because of occupational injuries, comments:

> When I started in my opinion, if I could ride my bike, I could do it for the rest of my life; but then the reality with the money came into effect. You can't really be living off the small paychecks forever and then wanting to do better for yourself...If I wanted a family I couldn't have stayed on the road.

Making long-term plans, such as starting a family, is difficult for many workers if they are precariously employed. Not being able to establish long-term plans or pursue life goals are some of the consequences of precarious employment for messengers and other workers who find themselves in similar situations (Lewchuk et al. 2013). As individuals, messengers often feel powerless to challenge the terms and conditions of employment, and exiting the sector for other work is seen as a means to improve their financial situation.

While messengers may not intend to work in the industry for as long as they do, some messengers find themselves stuck, unable to exit and find other types of employment or pursue other life goals. A few messengers comment on how they have tried to find employment in higher-paying and less precarious occupations. These opportunities, unfortunately, failed to materialize (interview with Ian; interview with Jay). Similar to other workers, messengers often remain in precarious employment longer than intended (Lightman et al. 2008). Steve, for example, comments:

> I keep on saying to myself: 'I want to go to school this fall.' I'm stuck in this little loop where I keep on meaning to go to school the next fall and it's been

> like that since my first year...I only wanted to do this temporarily...But one year passes, three years pass and by that point you've adapted to the job.

Low income often means that workers have to forego activities, such as furthering one's education, which could improve their future financial situation and position in the labour market (Fuller 2009). Lack of better employment opportunities and not having the financial means to achieve other goals are among the reasons that workers may remain in precarious employment often longer than they intended. Workers who do not have recognized skills and have limited bargaining power in the labour market can often become trapped in a cycle of precarious employment (MacDonald 2009).

The Self-Employed Status of Messengers

To understand the characteristics of self-employment in the same-day courier sector, and whether or not these workers should be legally classified as independent contractors, an analysis of messengers' working lives is necessary. Particularly important to consider are the following: the form of remuneration; control over the labour process; messengers' relationship with the dispatcher; ownership of means of production; messengers' ability to undertake entrepreneurial activity; and messengers' integration into the normal operations of the courier firm (Davidov 2002; Vosko 2010). Comparable to an examination of the labour market, an analysis of messengers' work and their relationship with the courier firm suggests that they are more akin to employees than independent contractors.

The Mode of Remuneration

Even though messengers are treated as if they are self-employed and earn a commission or a piece-rate wage, their labour process is a capitalist labour process and not one of an independent commodity producer. When workers establish a relationship with an employer and are paid a time wage, a commission, or a piece-rate wage, they renounce ownership over the commodified goods or services that they have produced. Regardless of the mode of remuneration, the commodities that workers produce become the possessions of the employer, which are then sold by the employer on the market to *its* customers. While most workers who are treated as employees receive an hourly wage, hourly wage workers are not necessary for capitalist social relations of production. With hourly wages, the amount of labour is measured in duration based on time. With piece-rate wages, labour is measured directly by the quantity of goods or services produced. Piece-rate wages or commissions are only modified forms of time-based wage and do not transform the general relationship between workers and employers (Marx 1973 & 1976; Baxter and Mann 1992). Like other workers who also earn piece rates, messengers are not furnishing a finished commodity to be sold on the market. Messengers are only supplying the labour that goes into the commodity in return for a piece-rate wage (Browny and Fudge 1993).

Non-hourly forms of remuneration can often result in an intensification of the labour process and a lengthening of the working day. If the worker wants to increase his or her income, he or she has to increase output by working harder or by working

longer hours to complete more tasks. This, however, should not be understood as a worker having the ability to increase his or her profit potential, especially if the worker has no control over the workload. Additionally, non-hourly forms of remuneration transfer the risks of production, which are usually the concern of the employer, onto the worker. Thus, the workers bear the brunt of fluctuating market demand. If there is no work, there is no pay for the worker. With the fluctuating demand for same-day courier services, it makes more economic sense for employers to only pay for work performed as opposed to an hourly wage (Marx 1973 & 1976; Baxter and Mann 1992). Paying workers by a piece-rate wage instead of an hourly one can be seen, as Marx suggests, as "the most fruitful source of reductions in wages and of frauds committed by the capitalist" (1976: 694). Piece-rate wages can be considered the archetypal method of payment for the capitalist labour process. It can maximize both productivity and exploitation of the worker, and, at the same time, decrease the risks for the employer (Marx 1973 & 1976). The employer usually determines the type of remuneration, which can be manipulated to make the relationship appear as a commercial instead of employment one. Just because messengers are paid a piece-rate instead of an hourly wage, the labour process should not be seen as one of an independent commodity producer. While working harder or longer in order to complete more deliveries can potentially increase a worker's income, working in such a manner should not be mistaken for entrepreneurial activity (Browny and Fudge 1993; Davidov 2002).

Training and Instructions

The degree of employer training should also be taken into account when examining employment status. Training is often indicative of the employer exercising some control over the labour process (Davidov 2002). A few messengers had one day of shadow training, which consists of following another messenger around for a day. Most messengers, however, had no training beyond the basics of how to use the communication device and how to fill out waybills, and some did not even receive this basic training. Training usually occurs at the courier firm's office at the moment of hiring and generally only takes a few minutes (interview with Jill; interview with Ivan; interview with Phil). Since messengers are paid a piece-rate wage, there are few incentives for employers to train workers further to become more productive or efficient. As in other low-paying and labour-intensive jobs, this limited training means messengers need to figure out how to do the job on the job (Herzenberg et al. 2000). This lack of training can impact how competent workers feel about doing their job. Erica, for example, comments: "there were embarrassingly easy things. I didn't know how to fill out a waybill and customers would tell me that. I had no training." Feeling inept can, in turn, reinforce feelings of powerlessness, making messengers less likely to assert themselves in their relationship with the employer. Lack of training can reinforce messengers' subordination in the social relations of production (Peck 1996; Herzenberg et al. 2000).

The lack of training, however, should not be surprising given the way that employers operate in this sector. If messengers are offered training and if they contest their employment status at some point in the future, employer training is often indicative of an employment relationship (Davidov 2002; Gunawan and Kleiner 2005; Bush 2009). It is thus not in the interest of courier firms to train messengers. Messengers are piece-rate workers and given the finite demand for courier services, making messengers more efficient and productive through training will not increase the profitability of courier firms. If demand increases substantially, additional workers can be hired without incurring additional costs. The lack of training in these circumstances should not be particularly relevant in determining what a messenger's employment status should be. In addition, many jobs require little or no training, and are, nonetheless, performed by workers who are considered employees.

While messengers do not receive formal training, they do have to follow instructions on how to do the job. Instructions given by the employer to workers also factor into determining employment status, as employer instruction is also a form of control over the labour process. The information package that employers provide has enough rules to indicate that messengers are subordinated in the relationship with the firm, which in turn suggests that their status as self-employed is suspect (Davidov 2002). For example, at one same-day courier firm in Toronto the rules that messengers are required to follow include: messengers need to be on call for certain times of the day if they want consistent work; they need management authorization if they want to

take a break or a day off, and it is strongly suggested that certain days, such as Fridays and the days leading up to the end of the month, should not be taken off at all; the paperwork or waybill must be filled out correctly otherwise messengers may not be paid for that delivery; messengers must contact dispatchers if there is an issue with a delivery and have the dispatcher resolve it; messengers must direct any client request to change the service level to the dispatcher; messengers cannot negotiate rates with a customer; messengers must identify themselves as working for the firm and act in a courteous manner with clients; messengers are not allowed to ask clients for directions or to use their phones;[12] messengers need to stay in constant contact with the dispatcher to let the dispatcher know their location, which deliveries have been completed, and which ones still need to be completed; and, finally, messengers must also maintain personal hygiene (Contractor Information Package n.d.). These are rules that messengers *must* follow otherwise they could face discipline, including termination of their contracts. These are instructions, not advice, on how to do the job. Such stringent rules strongly suggest that messengers are disguised employees (Davidov 2002).

Control over the Labour Process

While contractually required to complete the task or tasks for which they are hired, independent contractors should have significant autonomy to determine how they

[12] These two rules are written bolded in the information package.

undertake their labour process (Stanworth and Stanworth 1995; Connelly and Gallagher 2006). Messengers' control over the immediate labour process varies from being subject to direct control to having responsible autonomy (Freidman 1977). Peter, for example, describes a tightly controlled labour process. He comments:

> The dispatcher will call me. He'll give me an address of where to go to pick something up, the name of the person who to pick it up from if it is someone specific...After I get the package I call him and tell him that I have the package and the he'll either tell me to standby and wait to pick up another package from that same area or he'll tell me to go drop it off. Then I'll go drop it off at the address...He directs me and tells me which one to drop first and which one to drop after that.

The messenger labour process can be under significant control, allowing workers to exercise very limited discretion. For Peter, the dispatcher determines the order in which pick-ups and deliveries are made. This sort of lack of autonomy is generally not, and should not be, associated with the work of someone who is considered to be self-employed (Langille and Davidov 2000).

Other messengers have more autonomy over the immediate labour process. Messengers often have multiple documents or parcels on board, and they have some leeway to plan their route and the order in which packages are picked up and dropped off. To be sure, most messengers that I interviewed did have some autonomy to plan out their routes. Bill comments: "the dispatcher has in his mind which [route] is the most optimal, and I might do it a little bit differently. It is no big deal. As long as I get it picked up and dropped off on time, then they're fine." While most messengers have some leeway over the order in which they complete tasks, they are not necessarily

autonomous of the courier firm's control. Because of the pay structure, it is in workers' interest to operate in the most efficient manner and make deliveries on time. Barring circumstances out of their control, messengers are only paid for the work completed. A completed delivery includes making the delivery on time and documenting it with the waybill. If a messenger is late repeatedly, he or she will be given fewer deliveries in the future or may have his or her contract terminated. A system of incentives and threats is used to ensure that a messenger undertakes the labour process in a way that a courier firm generally wants. Messengers can have some latitude to determine the route and the order deliveries are dropped off and picked up; however, this does not result in the courier firm exercising no control over the messenger labour process (Davidov 2002).

As discussed further in Chapter Six, determining the route and order of deliveries allows messengers to use their organizational skills and to have some autonomy in the labour process. To be sure, workers need to have some discretion over the labour process, otherwise all that they would be capable of doing is undertaking the most mundane, straightforward tasks. Employers may allow workers to have responsible autonomy so that they can harness workers' creativity and problem solving abilities to make the labour process more efficient and productive (Friedman 1977). Being able to exercise some discretion over the labour process, however, does not mean that messengers should be classified as self-employed and legally be considered independent contractors. Workers can often exercise considerable discretion over the

immediate labour process; yet they are nonetheless still considered and treated as employees (Davidov 2002).

Courier firms exercise control over the labour process through the pay structure and reporting procedures. By only paying messengers for work that is done and documented correctly, direct supervision of the labour process becomes unnecessary as well as redundant (Herzenberg et al. 2000). A messenger does not need to be under direct supervision in order to be under the general control of the courier firm. The employer's ability to impose costs on workers for non-compliance or rewards for compliance is enough to create a relationship where the employer has significant control to render the worker both subordinate and dependent. Not unlike the situation of other workers who are more akin to employees than entrepreneurs, messengers' autonomy is still narrow and limited to removal of direct supervision over the labour process (Stanworth and Stanworth 1995; Davidov 2002). While messengers are generally not directly supervised by the courier firm and, therefore, not under its direct control, their lack of direct supervision should not mean that messengers are legally considered independent contractors.

Messengers' Relationship with the Dispatcher

To understand the degree of control exercised over the messenger labour process, messengers' relationship with the dispatcher is of primary importance to examine. Messengers are quite aware of the power that the dispatcher has over their work, with

one messenger, Steve, referring to the dispatcher as the most powerful individual within the firm. Despite sometimes being ex-messengers, dispatchers need to be seen as part of the management structure of same-day courier firms and not as fellow workers. It is the dispatcher who controls the workflow and allocates deliveries to particular messengers. The dispatcher monitors incoming orders and determines which messengers will do which tasks. It is the dispatcher who decides whether or not a particular messenger will engage in the labour process at all. As Sarah comments: "I felt that even though I had control over when I dropped the package, I didn't have control over what packages I got or anything like that." Control over the labour process is ultimately in the hands of the dispatcher, suggesting the existence of an employment relationship.

On the surface, the relationship between most messengers and their dispatchers appears amicable. Quite a few messengers describe their dispatcher as nice or caring. Jill, for example, notes: "he was a bike messenger for twenty years…He knows exactly what it is like to be on the road. If it is winter and you're twenty minutes late on a call because there is a big storm, he understands, and he'll let the clients know what is happening." A pleasant relationship in which empathy is expressed, however, does not alter the power relationship between messengers and the dispatcher. An antagonistic relationship with the dispatcher would make messenger work more burdensome and insecure than it already is. To build and maintain a positive relationship with the dispatcher also means having a subservient stance towards the dispatcher, similar to

how an employee would have to interact with a manager or supervisor. As Harry comments: "that's how you make money. That's how the dispatchers start respecting you, when you just go and do it without asking any questions or lollygagging about it." Being out of favour with the dispatcher can often have particularly harsh financial consequences. As Jay puts it: "you are at the whim of the dispatcher who might not like you, and if he doesn't like you, you're not getting fed. You're not getting paid very well." A messenger's income is not determined by his or her own entrepreneurial initiatives, but rather by the dispatcher's decisions to allocate or not allocate deliveries to him or her. This creates a situation of both dependency and subordination and also suggests the existence of an employment relationship.

As independent contractors, messengers should have some say over which deliveries they make and which ones they refuse. Independent contractors should not be obligated to undertake particular tasks (Davidov 2002). While their contracts state that they are permitted to turn down calls, messengers' financial dependency on the courier firm largely precludes this. Hank, recounting a conversation with a former dispatcher, notes: "he would say 'if you are not going do the calls that I send you, I am not going to give you any calls.' I never really had the ability to refuse calls." If a messenger turns down a delivery, he or she is deemed as unwilling to work. Because it will impact the amount of work a messenger receives in the future, the choice to turn down a delivery is quite circumscribed. There are, however, some circumstances where a messenger can refuse a delivery. Casey notes: "I cannot say that I don't want

that call. When there are big boxes I can say that I don't want that call, but for the most part I can't refuse. There is a refuse option on my radio, but when I hit that button, it says I am not allowed to refuse." Messengers can only legitimately turn down a call due to the weight and size of the package. Refusing a delivery because of the size or weight of the package does not, however, indicate that a messenger has the freedom to decide which deliveries he or she will or will not make. There is, after all, a physical limit in terms of what a person can carry on a bike. Messengers' very circumscribed ability to determine which deliveries they make also raises questions about their status as self-employed. In addition, being thwarted through technological means from being able to turn down a delivery also calls into question messengers' employment status.

In some sectors of the service economy, such as distribution and transportation, emotional labour requirements are assumed to be relatively low. In these and other service occupations dominated by men, workers generally do not have to display a deferential demeanor that is often expected in service occupations dominated by women (Nixon 2009). However, in order to secure a decent amount of regular work and to have a chance at the higher-priority and higher-paying deliveries, messengers often have to perform emotional labour. Emotional labour is part of the labour process in which a worker induces or suppresses certain feelings to stimulate an emotional state in others, usually customers (Hochschild 1983). For messengers, however, this emotional labour is not directed towards customers, but rather the dispatcher. Emotional labour is not only customer facing (Payne 2009). Sarah comments:

> I was always polite because I realized that they were giving me work and they don't have to. They can give it to someone else...I was always really kind. I could hear other couriers sometimes not being so polite and feeling like the dispatcher maybe disliked them for some reason. But I just tried to remember that I have to be nice in order to get good calls.

Since they are tied to working for one company, but are guaranteed no work, performing emotional labour is part of how messengers manage their relationship with the dispatcher. The fear of losing future work compels messengers to be polite and deferential to the dispatcher regardless of how poorly the dispatcher may treat workers. Such subordination suggests that the relationship a messenger has with the dispatcher is more like the relationship an employee has with a supervisor, as opposed to a commercial relationship between two businesspeople.

Other messengers also note how they had to perform emotional labour in their interactions with their dispatcher to ensure that the workday runs as smoothly as possible. Steve, for example, comments: "you could tell when [the dispatcher] is having a bad day, and sometimes after a spate of bad days everyone was trying to check in on their radios: 'just checking in; can't wait to ride today' with their sweet voices trying to excite him." Both women and men have to perform emotional labour to work as messengers in order to secure a decent amount of work and to remain on favourable terms with the dispatcher. However, the way in which messengers perform emotional labour needs to be understood in gendered terms. There are masculine and feminine ways to perform emotional labour. Sarah emphasizes being polite and deferential to the dispatcher—which carries connotations of femininity—while Steve

stresses how he attempts to motivate the dispatcher—which has undertones of masculinity. The appropriate way for a worker to behave, including how emotional labour is performed, is established in the workplace in gendered terms (Hochschild 1983; Salzinger 2003).

Discrimination and Favouritism

With the power that dispatchers can exercise over messengers, and with the inability for messengers to contest the allocation of work and other decisions made by the dispatcher, discrimination can run rampant in this sector. The dispatcher's judgment of a messenger's competency and attitude impacts how many and what type of deliveries he or she will be allocated. Messengers are expected to take whatever delivery the dispatcher assigns without question. Derrick, for example, comments:

> There are a lot of people on the road where the dispatcher thinks that they're lazy or they don't have it in them, because they don't go and get it right away. But I am on commission. I'm looking at this thing and it's got several hours left, but if I don't pick it up one hour after I get it, I am deemed as being lazy or must not want to work. But I don't want to fucking work for three fucking bucks an hour.

If workers are deemed as lazy or if they question the allocation of work, the amount of work that they can secure from the dispatcher in the future is likely to decrease. With the pay structure, as Derrick suggests, messengers have legitimate grounds to question a dispatcher's judgment of their willingness or unwillingness to work. Having the

power to discipline a worker in such a manner also suggests the existence of an employment relationship.

Age discrimination is another issue in the same-day courier sector, despite being prohibited in commercial as well as employment relationships under human rights legislation in Ontario (Fudge et al. 2002). Age discrimination is often prevalent in occupations that require physical strength and endurance (Kovarsky and Kovarsky 1974). Accordingly, age discrimination impacts how much an older messenger can earn. Hank, a retired messenger in his early 60s, discusses how, by the end of his career, he would only be allocated the low-priority and low-paying deliveries. He notes: "I had been typed-cast as one of the older people so I couldn't do the calls that paid money... You're slotted into something, and that is all that you end up doing." If a messenger is perceived as old and not having the required vigour, there is little he or she can do to challenge the dispatcher's prejudices. An older worker may not be able to do the job as quickly as a younger worker, but it is unjustifiable that an older worker ends up earning a lower income as a result.

Discrimination also occurs on the basis of gender, which is likewise prohibited under human rights legislation (Fudge, et al. 2002). Gender discrimination can have significant financial consequences for women in the messenger occupation. Sarah, for example, comments:

> Almost every day I would be really frustrated sitting there thinking: 'I've could have taken that call. I could do that really fast too.' I'd get frustrated about it. I might not do it as quickly because I am going to ride a little bit safer, but it is going to get there. It's going to get there on time. It was just

> really frustrating. I felt that I was not getting as much work because I was a woman. I had more downtime than all the guys.

While all messengers are low-income workers, the women that I interviewed report earning less on average than their male colleagues. However, because messengers are in a commercial relationship with the courier firm, the courier firm is under no obligation to give a messenger any work; both gender and age discrimination becomes difficult to prove, let alone have rectified. A dispatcher can make up a reason as to why particular deliveries are allocated or not allocated to certain messengers. Rampant gender discrimination suggests that some sort of regulations governing the relationship between messengers and courier firms is necessary.

To understand the discrimination that women face as messengers, there is a need to take the gender dynamics of messenger work into account. When employers hire workers, they are not genderless workers or abstract labour that they are looking to hire. Men are preferred for some occupations while women are favoured for others. Employers have preconceived notions about the benefits or drawback of hiring men or women as workers. These beliefs shape which workers employers tend to hire for particular occupations (Caraway 2007). In gendered terms, the occupation of messenger is defined as a masculine one. The construction of some jobs as masculine and others as feminine has consequences for the types of jobs that women and men can hope to secure, as well as for how they are treated by employers and their co-workers (Clement and Myles 1994; Caraway 2007). Sarah, for example, recounts that, when applying for her first messenger job in Toronto, the employer expressed some doubt

about her ability to do the job; she had to call him back a few times before she was eventually hired. Ultimately, she was hired because the employer told her that he thought she was "hardy" and, therefore, suitable for the job. No men that I interviewed had their abilities doubted when they were applying for messenger work.

Even after they have worked as messengers for a while, women have to continue to prove that they are capable workers in a way that men do not. Jill comments: "I am constantly proving to myself and them [male messengers] that I can ride just as well as they can, and that I can do this job and I can take it as seriously as they can." As in other occupations that are dominated by men, women are often seen as less capable than their male co-workers. As Jill's comments suggest, gender discrimination can also result in self-doubt with regards to how competent women may feel doing messenger work. Women in male-dominated occupations often have to put in additional effort to demonstrate that they are competent workers (Hobbs et al. 2007). Because of perceptions of which gender is deemed capable of doing messenger work, women messengers can often be subject to discriminatory treatment, resulting in, among other things, fewer deliveries and lower pay.

Along with gender and age discrimination, there is a considerable amount of dispatcher favouritism in the same-day courier sector. There are no mechanisms in place to ensure a fair distribution of work, leading to considerable discrepancies in the amount of income that messengers can earn. Eric comments: "you do see it in the paychecks. We call them the gravy-dogs, the ones who get all the gravy-calls, who the

dispatcher favours." Like discrimination, messengers are largely unable to contest favouritism in the same-day courier sector. They can either put up with it or find employment elsewhere. Favouritism creates divisions among messengers—hence the derogatory term, gravy-dogs—and it can be used as a management strategy to pit workers against each other. Favouritism and the resulting unfair distribution of work are long-standing issues in the same-day courier sector and part of the reasons why many messengers seek to unionize.

Changing communication technologies have impacted messengers' ability to monitor the allocation of deliveries and dispatcher favouritism. Before the advent of cellphones, dispatchers and messengers used open-radios to communicate. With open-radios, messengers could gauge the general volume of deliveries and whether a particular messenger was being allocated more deliveries than other messengers. With most dispatchers now communicating directly with a messenger through cellphones or some other one-to-one communication device, messengers can no longer monitor who receives which deliveries or how much work there is in general on a given day (interview with Hank). If a messenger only receives a few deliveries on a particular day, he or she does not know if this is due to a general reduction in deliveries, as is sometimes the case, or if he or she is being disciplined by the dispatcher.

Messengers are quite defenseless against the dispatcher's decisions to assign or not assign deliveries to particular messengers. Discrimination and favouritism mean that messengers have little or no control over the amount of work allocated to them.

Having little or no control over their workload again raises questions about messengers' status as self-employed. Since messengers work for only one courier firm, the dispatcher's power to decide who receives which deliveries places messengers in a dependent position. With such power differentials, messengers are a group of workers who are in need of and would clearly benefit from employment standards protections, such as receiving a minimum wage, and from access to collective bargaining so that a fair distribution of work can be established.

Ownership of the Means of Production

Messengers' ownership of tools or the means of production also needs to be considered when examining employment status. Owning the means of production may create a chance for independence; however, ownership in and of itself does not mean that independence is actually achieved (Linder and Houghton 1990; Davidov 2002). For messengers, independence is not attained through their possession of the means of production. While messengers own some of the means of production—a bicycle and a messenger bag—they cannot use these independently to produce courier services and sell these on the market to customers. It is also important to stress that messengers do not own all the means of production necessary to produce courier services. The waybills, which are essential for billing and tracking purposes, are supplied by the courier firm and have the courier firm's insignia printed on them. Additionally, many messengers do not possess their own communication device, but pay a fee for being

able to use the one provided by the courier firm—a fee from which some courier firms also derive a profit (Courier Research Project 2005; interview with Eric). A messenger's communication device also needs to be connected with the communication system that the courier firm owns and operates. Ownership of the means of production can vary from a considerable investment of capital to nominal expenditures (Stanworth and Stanworth 1995). While it can be a substantial cost for low-income workers, the outlay for a bicycle and a messenger bag is relatively modest. The investment by messengers in their tools is significantly outweighed by the investment the owners of courier firms have made to run their businesses, which include the communication system, office space, office staff, advertising, licenses, and other costs of operating a courier business. These, and not the messengers' bicycles and bags, are the key elements of the courier business (Steiger and Form 1991; Boucin 2005).

A distinction needs to be made between real economic control over, and immediate ownership of, the means of production (Clement 1983 & 1986). Messengers may retain immediate ownership over the means of production; however, they do not have real economic control over the means of production, because they cannot use the means of production to independently sell their services directly on the market. Having real economic control means that messengers would be able to use their means of production to market and sell the services that they have produced directly to customers. Messengers cannot decide how, when, and where their means of

production are used. Messengers' use of the means of production is subject to their employer's restrictions. Messengers' means of production can therefore be considered "*sham property*" (Marx 1973: 499), which is left in the hands of the worker to reduce the employer's operating costs. Workers may retain ownership over the means of production and at the same time be subordinated to and dependent upon an employer. They cannot independently put their means of production and labour-power into action (Clement 1983 & 1986). Not being able to use their means of production independently of their employer suggests that messengers' status as self-employed is doubtful. They are much closer to employees. If messengers cannot use their means of production independently to generate an income, it is also doubtful that they are operating their own independent businesses.

Messengers' Understanding of their Employment Status

While messengers in Toronto are classified as self-employed, many are suspicious of this employment status. Only one messenger I interviewed, Gerry, accepted his employment status as legitimate; however, he also referred to himself as an employee of the courier firm later on in the interview, which suggests some uncertainty. When asked, a few other messengers were also ambivalent about their employment status (interview with Ivan; interview with Jim; interview with Richard). Because many workers lack comprehensive knowledge of employment and labour law, many workers simply accept the legitimacy of how their employer defines their employment status

(Kim 1999; Martin et al. 2006; Zatz 2008). Due to the CUPW organizing campaign, however, the legitimacy of their employment status has become a topic more widely discussed among messengers. More messengers have come to understand that they are disguised employees. The organizing campaign, whether or not it is successful in the end, has, at least, raised messengers' awareness of their rights that they should have as workers.

When analyzing workers' employment status, one needs to consider how workers understand their relationship with the firm for which they work. Eric, for example, notes: "[I feel] like an employee for sure. We have set working hours. We work for one company. We're not really free to go around and do different jobs for different people as an independent contractor would." Messengers do not determine the hours which they work. Courier firms establish the operating hours and if they want to receive continuous work, messengers are expected to be on call for the entirety of the courier firm's operating hours. While the contractual agreements do not explicitly state that messengers are prohibited from working for more than one courier firm, the structure of the relationship with the courier firm—particularly the requirement to be on call and readily available to make a delivery—largely prohibits messengers from working for more than one firm at a time. If a messenger is not available to make a delivery, it is allocated immediately to another messenger. The fear of losing future work largely prevents messengers from contracting with more than one company. When asked if there was any way to increase his income, Jay, for example, notes:

> [I could] by double-dipping, by working for another company on the side. That is one thing that I have thought about doing is not concerning myself with the service for either company and just taking whatever calls until somebody gets fed up and lets you go...I think that they would be pretty upset about it. If they knew about it, they wouldn't let you do it at all.

As Jay's comments suggest, if a messenger is working for more than one firm at time, it can place his or her employment with both firms in jeopardy. Messengers cannot spread risks around the market by contracting with more than one firm. Because of the economic realities of the job, messengers are tied to working for one firm, and this suggests that their status as self-employed entails a misclassification.

Messengers also note their integration into and dependency on the courier firm as reasons why their status as self-employed is questionable. Maria comments:

> I am not running my own business in the slightest. They are not my clients. I am completely dependent on [the courier firm], absolutely. They have all the clients. I promote their services, not my own. If someone asked me if I am a bike messenger or which company I work for, I don't give them my phone number. I give them [the courier firm's] phone number. It is completely through them, everything, all of it.

Messengers contract with a courier firm and only appear on the market for courier services through that courier firm. All messengers supply is their labour-power. They are not furnishing any finished commodities directly for sale in the market (Browny and Fudge 1993). Messengers also do not appear in any business directories or in the Yellow Pages for courier services. While a messenger delivers to multiple customers, he or she can only access these customers through the courier firm. A messenger can only produce courier services through the courier firm. Producing services through the

courier firm means that the services are being produced *for* the courier firm, which in turn suggests that messengers resemble employees more so than individuals who are self-employed.

Messengers also note the lack of decision-making capacity and having to follow strict orders as raising doubts about their status as self-employed. Peter has previously been self-employed in sound production, and he can compare that bout of self-employment, which he saw as legitimate, to his bout of self-employment as a bike messenger, which he sees as illegitimate. He notes: "I've been self-employed before. If you run your own business, you make your own decisions that affect your business. But for this I am just taking orders from someone. I listen to someone and I just do what I am told. That's all." Having to follow strict orders and being unable to make any decisions about how to undertake work are generally not and should not be considered to be characteristics of self-employment (Langille and Davidov 2000; Davidov 2002). The lack of decision-making that Peter describes strongly suggests that he and other messengers are disguised employees.

Messengers are subject to the business decisions made by the employer. Messengers have no say in how much customers pay for the delivery service that they provide. Messengers also have no ability to negotiate their commission or piece-rate for the service. Courier firms unilaterally determine delivery rates and the commission that messengers receive. In some circumstances, employers even refuse to inform messengers about the rates that they charge customers for deliveries. Ian, for example,

recalls a conversation he had with a former employer where his employment status came into doubt. He comments:

> They told me what the percentage was, but they wouldn't tell me what any of the rates were. So there was no clue as to what it was a percentage of. At that company it was ridiculous... The owner...if you asked, she would be like: 'it is none of your business.' And I was like: 'what are you talking about? If we're supposed to be independent contractors, which you've been harping on constantly, literally we're supposed to know that. We're supposed to be able to negotiate that'. And she's like: 'are you telling me how to run my business?' 'Are you talking to an independent contractor, really?'

The conversation Ian recounts calls into question the legitimacy of his employment status. At the very least, independent contractors should know beforehand how much they will be earning for the work they undertake, and, ideally, they should also be able to negotiate what they will be paid for a particular task. Working under the circumstances that Ian describes, it is not surprising that he and many other messengers question the legitimacy of their employment status.

When messengers now contemplate what their employment status is, many see it as a sham that they are treated as self-employed. To be sure, the CUPW organizing campaign sparked the messengers' questioning of their employment status. For many messengers, their relationship with the courier firm is now understood as an employment relationship and no longer as commercial relationship. They do not experience their job as being one of an autonomous or independent commodity producer.

Conclusion

Messengers are a group of workers who can be considered disguised employees. They are not entrepreneurs operating their own independent businesses. Messengers are subordinated to and dependent on the courier firm for which they work, are quite vulnerable in this relationship, and are clearly in need of the protections currently afforded to employees through employment standards and collective bargaining legislation. Workers, especially marginalized ones such as messengers, face many obstacles in challenging their employment status in order to gain rights to employment standards and collective bargaining, because the onus is on workers to prove they are employees if they are classified as self-employed. Employers do not have the burden to prove that workers they hire are independent contractors; they can just hire them as such. If workers are classified as self-employed, they are presumed to be self-employed until proven otherwise. As discussed in the conclusion, placing the onus on workers is highly problematic and this needs to be challenged (Ladd 2011).

If there is little chance in being caught and prosecuted for misclassifying workers as self-employed, and if fines and penalties are not particularly onerous, there are few disincentives for employers not to hire workers as independent contractors. By treating workers as self-employed, employers can realize significant costs savings, skirt obligations that they would otherwise have to employees, as well as avoid a unionized workforce. There are too many incentives and not enough deterrents for employers to classify workers as independent contractors. This is why provincial and

federal governments in Canada could follow California's lead. As discussed in more detail in the concluding chapter, California recently amended its employment law to increase the penalties for employers who wilfully classify workers as independent contractors when they should legally be considered employees (California 2011). However, until laws are changed, one of the few effective ways for workers to currently challenge their disguised employment is through organizing. Before looking at how disguised employment relationships can potentially be challenged through unionization, the next chapter examines some of the additional consequences of working as a messenger in Toronto's same-day courier sector.

Chapter Six:
The Consequences of Work in the Same-Day Courier Sector

Introduction

For bike messengers, working in Toronto's same-day courier sector can have significant financial, social-psychological, and physical consequences. Despite providing a service that is critical to the just-in-time operations of many businesses, organizations, and institutions, messengers are low-paid workers, with many earning less than minimum wage. Since they are paid a piece rate and because the demand for courier services tends to fluctuate, messengers' income can also fluctuate significantly. With their current employment status as self-employed, messengers must cover all employment-related expenses, further reducing their disposable income. Additionally, they are required to perform a significant amount of unpaid work to be able to engage in the messenger labour process. While messenger work requires skill, messengers' marginalized position in the labour market results in their work being deemed as unskilled; as a result their work tends to be devalued. In terms of social-psychological consequences, many in society look down on messengers and messengers are often subject to discrimination and harassment. Messenger work is seen by some as "dirty work", and messengers themselves are seen as personifying dirt.

Messengers are under considerable pressure to take risks to complete as many deliveries as possible as quickly as possible. Messengers work in a hectic urban environment with many contingencies beyond their control and use a form of

transportation that offers no physical protection. Consequently, messenger work can be quite dangerous, and occupational injury rates are quite high. As a physically intense job, this occupation takes a considerable toll on the body. Messengers' bodies are used and abused in the making of profits for their employers. Yet, despite these negative consequences, many messengers also enjoy much of the content of their work, which helps to render their work more bearable.

These negative consequences need to be understood in connection to messengers' disguised employment, as well as their marginalized status in the labour market and in society more generally. As I contend, because messengers tend to be marginalized workers and working under a disguised employment relationship, these consequences can be imposed on them. Messengers are workers who can be paid next to nothing, treated as degenerates, and placed in hazardous work situations with little regard to their physical well-being. Their disguised employment limits their ability to exert agency and contest many of these aspects of their employment. This is not to say, however, that messengers have no capacity to resist, that they see the work they do as burdensome toil and as unskilled, or that they see themselves as "dirty workers." Messengers do resist, re-conceptualize the work that they do as something of value, see themselves as decent and hardworking, and, unlike many precarious forms of employment, derive considerable pleasure in their work.

I begin this chapter by examining the low and fluctuating pay that messengers earn and how this impacts their standard of living. In addition to being paid little for

the work they do, messengers experience pressure to perform a considerable amount of unpaid work. Such pressure is the focus on the next section. Following this, I examine messengers' skills and their devaluation. I then move on to examine stigma in the messenger occupation. Messenger work is often seen as "dirty work" and messengers are seen as "dirty workers." Because of this stigma, they can often face discriminatory treatment by those with whom they interact throughout their working day. Messengers, however, redefine the work they do and contest the stigma associated with their work. In the following section, I examine risk taking and messenger work. Risk taking is closely connected to the piece-rate pay structure of the job, which encourages messengers to complete as many deliveries as possible and with great expedience. After examining risk taking, I turn to occupational health and safety in the messenger occupation. Messengers are at high risk of occupational injury and ill health, and same-day courier firms often have little regard for messengers' health and physical well-being. In the final section of this chapter, I change direction and discuss some of the positive experiences of messengers' employment, as these positive experiences tend to dampen the negative consequences and help to make work tolerable.

Working for Low and Fluctuating Pay

Messenger work is a low-paying form of employment. Most messengers are paid a piece-rate or commission, earning from fifty to sixty-five percent of the value of each delivery, with the average being sixty percent. Depending on how many deliveries are

allocated to a messenger, daily income can range from as low as $30 up to $150 for an eight- to ten-hour workday. Only two messengers I interviewed have a daily guaranteed minimum. Richard, for example, has a $90 a day minimum guarantee and in order to receive this minimum pay, he has to be on call from 9am to 5pm. Erica has a $75 a day minimum guarantee; however, she is required to be on call from 8am to 6pm. With his minimum guarantee, Richard earns about $1 an hour more than the current Ontario minimum wage of $10.25 while Erica, on the other hand, earns significantly less than the minimum wage, averaging only $7.50 an hour. Erica and Richard can potentially earn more than their minimum guarantee. If the total value of their commission amounts to more than their minimum guarantee, then they are paid on commission. However, the way in which the courier firm structures Erica's minimum guarantee makes exceeding the guarantee next to impossible. She explains:

> There is a minimum guarantee, but it never works out to minimum wage and it never works out to all the hours that we work. If commission exceeds that minimum then you are paid commission, but the commission for the entire pay period has to exceed the minimum for the entire pay period...I just get paid the minimum. It works out to be 75 bucks a day when I work ten hours in a day.

One day for Erica can be quite busy, while another day work can be quite slow; however, because her commission is averaged over two weeks, she generally cannot earn more than $75 per day or $7.50 in an hour. A minimum guarantee in the same-day courier sector, as Erica stresses, is not the same as the legally guaranteed minimum wage. Erica's lower guaranteed minimum also reflects the lower pay that

women tend to earn as messengers compared to men. For Richard, if he earns more in commission than his minimum guarantee on a particular day, he is paid straight commission for that day. However, he has only exceeded his guarantee a few times over the last two years working for his current employer. While messengers who have a minimum guarantee have some stability in terms of what they earn—something that messengers on straight commission do not have—having a minimum guarantee in the same-day courier sector does not lift a worker out of poverty, especially considering that the living wage in Toronto for 2008 was estimated to be $16.60 per hour after taxes (Mackenzie and Stanford 2008). To be sure, messengers do not think they are fairly paid; low pay is the leading complaint that messengers have about their work. Their low pay stems directly from their disguised employment. Because they are not considered employees, courier firms do not have to pay the legally mandated minimum wage to their workers.

For messengers who work on straight commission, income can fluctuate quite dramatically. On a busy day, messengers on commission can earn an adequate, though not extravagant income. However, on slow days messengers earn very little, which can be quite distressing. Paul, for example, comments: "when you get calls it is fair, but it is not fair when you don't get calls. Why I am waiting on my bike downtown in the freezing cold for nine hours if you only give me the ability to make $40 or $30? It is not fair." Messengers are not necessarily against being paid a commission or a piece-rate wage; however, many also think that some sort of minimum guarantee is

necessary for days when there are very few deliveries. From a normative standpoint, being required to be on-call for nine hours, yet earning as little as $30 for a day's work is unjustifiable. Messengers, like any workers, deserve a minimum guarantee at least equivalent to the minimum wage.

Experiencing fluctuations in income can result in considerable uncertainty in a worker's life. Casey explains some of the financial consequences of income instability on his life. He comments:

> You don't have the security to know what your paycheck is going to be. It's a guessing issue. Every payday you have to wait. It's like a surprise. 'Yay, it's a big one this week' or 'oh, it is shitty this week'. You can't say: 'oh, I'll give you that $500 that I owe you' because I don't know if I am going to get paid that much...There is no guarantee how much your pay is going to be.

Unstable incomes tend to be more pronounced among the self-employed, especially for those whose self-employment entails a misclassification and who have no control over their workload. By hiring workers as independent contractors, the uncertainty of business activity in the same-day courier sector can be transferred onto workers (McManus 2000; Tremblay 2008). Messengers—whether they earn straight commission or have a minimum guarantee—suffer from income insecurity. Income insecurity includes the lack of a stable and/or adequate income: stable meaning a lack of fluctuations in income and adequate meaning enough to cover costs of living while keeping pace with inflation (Standing 2011).

The low pay messengers receive can be quite demoralizing as well as stigmatizing. Allan, for example, notes, "we make such little money. It is pretty little

some days...Sometimes you get a call and you know that you're only going to earn a dollar doing it. That's a really bad feeling." To be sure, low pay impacts a messenger's sense of self-worth as well as how valued they feel by the firm. When messengers start working for a courier firm, the firm often gives the impression to messengers that if they work hard and dedicate themselves to their work, they will be able to earn a decent income. However, these promises often fail to materialize. Chris comments:

> Companies make a lot of promises: 'you'll get this and you'll get that.' But then, of course, they don't deliver...You're disappointed and then you wonder why you are getting up and going to work every day. Then you see the printouts of what you made each day and it just infuriates you to the point where you just don't want to even look at it...It affects all parts of your life, all aspects of your life financially, socially, emotionally, etc.

As other research suggests, low income, a piece-rate payment system, and the dissatisfaction with pay often correlate with low self-esteem among workers and can also often lead to feelings of frustration and demoralization (Tharenou 1979). When workers become demoralized, their capacity to resist is also often diminished. Demoralization can undermine workers' belief that they can do much to improve their employment situation, reinforcing feelings of powerlessness (Harman 2008; Webster et al. 2008; Standing 2011).

Food insecurity is another type of insecurity that messengers experience because of their low and fluctuating pay. Food insecurity means the uncertain availability of healthy and safe food, as well as the ability to obtain healthy and safe food in socially acceptable ways (Eikenberry and Smith 2005). Food banks and soup kitchens are

among the community resources that messengers use to secure an adequate amount of food (interview with Hank; interview with Nicole). Hank, a retired messenger who volunteers at a food bank in Toronto, comments: "I usually work Tuesdays, Wednesdays, and Thursdays at a lunch program where we have our share of non-unionized couriers showing up both for breakfast and for lunch." He continues somewhat jokingly: "I've wanted to get a stamp that says: 'This delivery is sponsored by the Daily Bread Food Bank.'" Some messengers also practice dumpster diving in order to secure an adequate amount of food. Commenting on how she survived earning around $350 a week while working full-time as a messenger, Sarah notes, "I dumpster-dove for food, for fruits and vegetables at a local organic market. I didn't smoke. I didn't have my own cell phone or telephone so I didn't have a phone bill. I didn't have the internet. I really had nothing to pay other than my rent." Despite living as frugally as possible, Sarah could still not meet her food costs with the income that she earned from messenger work. For most of the population, using food banks and soup kitchens or dumpster diving are not socially acceptable ways to secure an adequate amount of food. Securing food in such a manner, to be sure, is an indicator of a person living a precarious existence. Little academic research has been conducted on dumpster diving. The few studies on dumpster diving, mostly American ones, suggest that it is a practice among very low-income urban dwellers to supplement their food intake (Eikenberry and Smith 2005). Messengers experience food insecurity largely because they are not in a position to demand adequate compensation for the work that they

perform, which again is connected to messengers being in a disguised employment relationship.

While not all messengers have to use food banks and soup kitchens or go dumpster diving to be able to secure a minimal amount of food, messengers in Toronto tend to be below, or, at best, hover around poverty levels. Jay, who is one of the higher earning messengers and takes home between $500 and $550 a week, comments:

> [Our lifestyle] is the bare minimum...We eat well. I have three kids and a wife. We have a nice apartment, but we can't afford a car or a vacation. We can afford a vacation but we can't get a vacation because that is two weeks that there is no pay. We are bordering on poverty.

Even the higher earning messengers are not living a sustainable life. Messengers in Toronto are part of the working poor, and their inability to do much about their low standard of living stems from their marginalized position in the labour market and their disguised employment. A significant number of messengers are clearly unable to adequately sustain themselves with the income that they earn through messenger work. For the ones who can sustain themselves, they do so at a bare minimum.

Food insecurity is especially problematic for this group of workers. Because of the intense physical nature of their work, messengers require a higher intake of food and calories than many other workers. Riding at a speed of 25 kilometers per hour for an hour, for example, a messenger will burn about 980 calories (Bicycling.com n.d.). A worker sitting at a desk and typing for an hour will burn about 125 calories (Caloriecount.com n.d.). For messengers, food *is* fuel. After a walking messenger in

Toronto waged a lengthy legal battle with Revenue Canada, Revenue Canada was compelled to recognize that food costs are a legitimate business expense for messengers, because bike and walking messengers require a higher intake of food to maintain their physical energy throughout the day than other workers. Messengers can now claim a $17 a day food allowance as a tax deductible expense (*Scott v Canada* 1998; Scrivener 2006). While a tax deductible expense for food is of value to messengers, it does not address the problem of food insecurity among these workers, especially on the days where messengers can earn as little as $30 for a day's work. This income is not enough to cover the cost of food, let alone other costs of living. Additionally, this tax deduction is not well-known, and some messengers only learned about it after participating in the tax workshop put on by the Courier Worker Centre (interview with Paul).

Because messengers are treated as self-employed, they are also responsible for all costs associated with their employment. Messengers' expenses can range from $2000 to $3500 per year. If messengers have to replace their bicycle, this can add an additional $600 to $1200 to their yearly expenses. As part of the outreach component of the organizing campaign, CUPW offered a free tax preparation seminar for messengers at the Courier Worker Centre. The aim of the tax preparation workshop was to help messengers file their taxes so that they do not have to pay more than legally required, which, for low-paid workers, can be a significant amount of money. Many messengers found the tax seminar to be quite useful. Despite being able to claim

business-related expenses,[13] messengers viewed many of these expenses with disdain. Out of all the expenses that messengers are forced to incur, the most irksome tends to be the cell phone or radio fees. Most messengers are required to rent a cell phone or a two-way radio from the courier firm at a cost of $65 to $100 a month. For some messengers, the cellphone or radio fees can amount to half of their yearly expenses. Through the cell phone or radio fees, messengers also end up providing a revenue stream to the courier firm (Courier Research Project 2005; interview with Eric). Similar to other workers, such as exotic dancers, who are treated as self-employed and legally classified as independent contractors but in reality are disguised employees, messengers have to pay their employer a fee for the privilege of working (Hanna 1998; Bouclin 2004).

Courier firms can be quite unscrupulous with the radio or cellphone fees they charge messengers. Jay, for example, recounts an incident where he ended up in a serious accident and had to take time off work. He notes: "I was off for like a month. My first cheque when I came back they had deducted a full month's worth of radio fees, because I had kept the radio...It got it straightened out afterwards, but it is still pretty insulting." While recuperating from his injuries, returning the radio to his employer was obviously not the first thing on his mind. Even charging radio fees while a worker is injured and unable to work shows a serious lack of concern that some same-day courier firms can have for their workers. Messengers are used and abused in

[13] Some messengers file their income taxes yearly, while other messengers have never filed any income taxes from their messenger work.

the making of profits for their employer and when they cannot work because of injuries sustained on the job, some employers still attempt to take advantage of messengers by continuing to charge fees for the communication equipment. Messengers are low income workers, and the additional expenses they are forced to incur as a result of their disguised employment further amplify their already precarious existence.

Working for No Pay

Working as a messenger requires performing a considerable amount of unpaid work as a precondition to engage in the actual labour process of making deliveries. Research on unpaid work tends to focus on the gendered division of labour in the household and how the burden of this unpaid work falls primarily on women. However, some workers are required to perform unpaid work as a condition of their employment. This unpaid labour results in an extension of the working day. Messengers are part of the precariously employed labour force, and this segment of the labour force is particularly susceptible to having the working day extended through unpaid work. Unpaid work in the context of paid employment can be understood as obligatory work that is undertaken by a worker, which is unremunerated but would otherwise be done by someone else in the economy for pay (Pupo and Duffy 2012). By requiring workers to perform unpaid labour, employers can further reduce operating costs. The requirement to perform unpaid labour can result from either compulsion or coercion or some

combination of both. If a worker is required to perform unpaid work to keep his or her employment, the expenditure of this unpaid labour can be thought of as being the result of *coercion*. If a worker is persuaded that they need to perform this work because his or her identity, including occupational identity, calls for it, the expenditure of this labour can be thought of as being the result of *compulsion*. With coercion, not doing this unpaid work is a threat to one's livelihood. With compulsion, not doing this unpaid work can be a threat to one's sense of self (Baines 2004 & 2004a). For messengers, whether this unpaid work is done due to compulsion or coercion depends on what type of work is being performed.

Riding a bike for eight to ten hours a day, five days a week, in all sorts of weather, results in significant wear and tear on the bike. To keep their bicycles in a properly functioning condition, messengers need to perform a significant amount of repair and maintenance work. Without a properly functioning bicycle, messengers cannot work or would be working at a reduced capacity, which would decrease their already low income. As workers who are classified as self-employed, all the costs associated with their work, including maintenance and repair costs, are passed onto them. However, as low-paid workers, bringing their bicycles to a bicycle shop for all repair and maintenance work is beyond the means of most messengers. Stressing the economic necessity of doing this work himself, Paul comments:

> You have so many bike problems when you are riding that many hours every day. It is hard on a bike. You are constantly replacing parts: new chain, new wheels. It adds up...I am like an amateur bike mechanic. You have to be good with fixing bikes. Otherwise you would have to bring your

> bike to a shop every time something breaks. *There would be no way that you could survive.*

Messengers do unpaid maintenance and repair work on their own equipment, which would otherwise be done by someone else at a bike repair shop for pay.[14] Some messengers enjoy repairing and maintaining their bicycles and see bike repair and maintenance skills as valuable to develop. Repairing and maintaining their equipment is not something messengers necessarily do begrudgingly. When a worker views a particular type of unpaid work as enjoyable or as something valuable to learn, unpaid work tends to be further obscured, and, thus, not seen as work. Additionally, because repair and maintenance work is generally performed outside of the hours that a messenger is officially on call, it also tends to become less visible as work. To be sure, unpaid work is often not seen as work. Messengers may not necessarily perceive unpaid maintenance and repair work as coercive; however, because of their financial situation, unpaid maintenance and repair work is nonetheless required of them, and thus carries a connotation of coercion (Baines 2004; Pupo and Duffy 2012).

There are also ideological processes shaping the performance of unpaid maintenance and repair work, which intersects with messengers' identity. Through these ideological processes, consent to unpaid work can be secured. In such circumstances, unpaid work results from compulsion (Baines 2004). Bike messengers are bicycle enthusiasts and part of being an enthusiast—in particular a masculine

[14] Fortunately, when messengers need repairs made to their bicycles that they cannot do themselves, there are a few bike shops in Toronto run by ex-messengers that will give messengers discounts.

bicycle enthusiast—is to know how to do repair and maintenance work. Occupational ideologies can be used rationalize unpaid work; however, this does not mean that financial pressures are absent. Ivan, for example, comments:

> I think it is important to learn how to maintain your own bike... I do all the basic stuff and I am slowly learning all the other stuff...You save so much money. And it is nice being able to do it yourself. It is just what you have to do. You don't want to be paying all this money for bullshit...It is just nice that I can do it myself. It is just like a *man* thing to do.

A messenger's occupational identity is tied in with being a bicycle enthusiast. The occupational identity of being a messenger is also a masculine occupational identity, whereby the masculine bicycle messenger is one who knows how to repair and maintain his own bike. A messenger may feel compelled to perform unpaid labour as part of establishing his masculine occupational identity. Similar to other sectors, such as social services, where workers also perform a significant amount of unpaid work, employers can exploit a worker's occupational identity, along with the skills associated with this identity, in order to further reduce operating costs and increase their profitability (Baines 2004). The types of unpaid work that employers expect a worker to perform also need to be seen as connected to a worker's gender. Men are often seen as having the skills to maintain and repair equipment, and these are skills associated with masculinity. Employers have preconceived notions about what skills male and female workers are likely possess, and these views influence the way that employers organize the labour process, including the unpaid work employers expect workers to perform (Davies 1990; Caraway 2007). For messengers, performing unpaid

maintenance and repair work should be understood as involving elements of both coercion and compulsion (Baines 2004).

In addition to unpaid maintenance and repair work, messengers are also required to perform two other forms of unpaid work: wait time and standby time. Messengers tend to see these two forms of unpaid work as not just required, but also coercive (Baines 2004). If customers are not ready when a messenger arrives at the pick-up location or if they are not there at the drop-off location, the messenger is required to wait for customers. This is time when a messenger could be making a different delivery and earning a commission. Because of the highly competitive nature of the same-day courier sector, courier firms are reluctant to charge customers for time that messengers may have to wait, and, as with other aspects of their employment, messengers absorb the costs of waiting for customers. Phil comments: "things like wait time we don't get paid for that. We have to wait around because they're afraid of losing the clients." Messengers end up providing a subsidy to their employer by performing this unpaid work (Baines 2004a). As a highly competitive sector, wait time is something for which courier firms are not in a position to charge their customers. It is a cost of doing business; however, because messengers are in a disguised employment relationship and do not receive an hourly wage, employers can pass these costs onto workers. Waiting for customers, such as bankers and lawyers, who earn considerable incomes can be frustrating for low-income workers. Allan notes:

> There have been times when I am waiting for permission to put it in the mailbox and it is a call that's going to earn me a dollar and I wait for like

> fifteen fucking minutes or more to get a response [from my dispatcher], and I am just like why am I waiting fifteen minutes just to earn a dollar, while these people who make salaries are in the office sitting there all day playing games on their computers?

Neither customers nor the courier firm value messengers' time. Power relations determine whose time is valued and whose time is not valued. It tends to be marginalized workers, such as messengers, whose time is not valued (Snider 2002; Stevens and Lavin 2007; Pupo and Duffy 2012).

The devaluation of messengers' time is also evident in the number of hours that messengers are on standby. To ensure work throughout the day, messengers are required to be on standby during the courier firm's business hours; however, they are not paid for the time they are on standby. Paul comments:

> I probably have about an hour to two hours [of standby time] every day. It sucks because we don't get paid for those breaks at all. And we don't choose when they are....Sometimes I will eat my lunch in the middle of all these calls, because I am just too hungry to go on, and then once I am finished all my calls he puts me on a break for forty-five minutes and I already ate...When business slows down is when I am getting breaks. They come at inconvenient times.

Whether they are making an actual delivery or are on standby, messengers are still at work. As discussed in the previous chapter, messengers need to be on-call or on standby if they want a chance at making deliveries that day. If they are not, the delivery is allocated to another messenger. This unpaid work of waiting around on standby should also be seen as the result of coercion (Baines 2004). Unpaid work, especially the coercive type, has to be understood in the context of power relations. In

this case, it is the power relations between those who are obliged to perform this work—messengers—and those who can impose it on others—the courier firm (Pupo and Duffy 2012). Marginalized workers in disguised employment relationships, such as messengers, are among the least likely to be able to contest the unpaid work that they are coerced into performing.

Skill and Messenger Work

Employers see the work of a messenger in the same-day courier sector as unskilled work that anybody can do. Help Wanted advertisements for messengers on websites, such as *Craigslist* and *Kijiji*, state that no experience is necessary. On the surface, the messenger labour process does appear simple and straightforward (Fincham 2008). They receive a notification from a dispatcher through their communication device. They pick up a document, parcel, or package from one location. Then they deliver it to another location within a specified time period. While simple in appearance, the messenger labour process is more complex than these three steps and it takes skills that need to be acquired and developed. However, power relations determine what constitutes skilled and unskilled work, and employers tend to be in the position of power to define this. Despite having some distinctive abilities, messengers have limited power to demand that their work be seen as skilled and appropriately compensated (Attewell 1990).

Some messengers internalize the notion that messenger work is unskilled. This too should be seen as a result of ideological processes. Quite a few messengers tend to downplay, at least initially, the skills that they have and the skills that are necessary for the job. Derrick, for example, suggests: "it is very rudimentary. You go to A and pick this up and take it to B before the time expires. That's the bottom line of this job." However, because they often do not reflect upon their skills, workers may not fully realize the extent of their skill set. It is not that messengers have no skills or that messenger work does not require skills; rather, the skills that they have and that are required for the job are not recognized by employers, by customers, and sometimes not even by messengers themselves. Because their skills are not recognized, messengers are placed in a position where it is difficult for them to demand adequate compensation for the services they provide (Peck 1996).

Upon further probing, however, messengers reveal that a complex set of skills is actually necessary to undertake the messenger labour process. This revelation is what Attewell terms as "the infinite regress problem" where "the deeper one looks, the more knowledge and skill one finds" (1990: 431). What constitute skills and how skills are recognized and rewarded are processes subject to contestation. Skill should be seen as both a social construction *and* the ability to do certain tasks proficiently in a way that not everybody can. Claiming that skill is just a social construction can slip into an idealist argument and miss the materiality of work. While ideological processes impact what becomes recognized and rewarded as skilled work, the ability to do work tasks

proficiently, in a way that not everyone can, should also be recognized as part as what constitutes skill (Braverman 1974; Cockburn 1983: Hyman 1989; Vallas 1990).

In addition to being in good physical shape and having the stamina to expend considerable energy throughout the workday, four skills are critical to messenger work: organization skills; geographic knowledge; spatial and temporal awareness; and bike riding skills. To effectively use these skills, messengers must be given some autonomy in the labour process. While the dispatcher does determine who makes which delivery, and through this exercises general control over the messenger labour process, messengers cannot be micro-managed, and most messengers have a degree of responsible autonomy in the labour process (Friedman 1977). Having this degree of autonomy, however, does not mean that these workers should be considered self-employed.

As workers who are paid by a piece-rate wage, working as efficiently as possible is critical to how much income messengers can earn. Working efficiently takes organizational skills—the ability to plan ahead and deal with contingencies as they arise. Messengers need to have some autonomy in the labour process so that they can adapt to varying situations and circumstances (Friedman 1977). Phil comments on the significance of organizational skills. He notes:

> Organization, you need to be able to organize. If you're busy and have twelve packages, you have to organize them, everything from time-sensitivity, routing yourself, [and] what time of day it is; elevators in the morning and elevators at lunch are busy. If it is lunch and it's not a big rush, don't bother with it. Do it later because it is lunch. Going up and down the

> elevators takes like 15 minutes and you might have a couple of directs[15] that are more important.

These organizational skills cumulate over time. The more experienced a worker becomes, the more his or her skills are enhanced (Cockburn 1983). New bike messengers do not have the same developed skill set and competencies as the more experienced messengers do. It does take a while to become an efficient messenger (interview with Harry). Even in jobs that are labeled as unskilled, experienced workers are much more productive and efficient than are novice workers (Herzenberg et al. 2000).

Messengers often have multiple documents or parcels on board and they have to plan out the most efficient route. To do this, messengers need intimate knowledge of the geography of the city. Some messengers speak of having a mental map of the city in their head (interview with Hank; interview with Harry). A mental map can be thought of as a cognitive image that individuals have of their surrounding environment. It is knowledge that individuals use to position locations relative to each other, to determine the separation between these locations in both space and time, and to plot the most efficient route to go from one place to the next while taking as many contingencies as possible into account (Pocock 1976; Axhausen 2008). Maria, for example, comments, "you just learn where the good streets are, where the construction is, where the traffic's terrible, what streets you like, what streets you don't, the quickest shortcuts, alleyways, and that sort of thing." While workers develop skills and

[15] Directs are the highest paying deliveries and have to be delivered within 15 to 30 minutes.

become more efficient at messenger work, they do not develop such skills through firm-initiated training; skills are developed informally either through experience or learned from co-workers. Informal skill development is a factor as to why messengers' skills are neither recognized nor rewarded by employers in this sector (Herzenberg et al. 2000; Livingstone and Raykov 2005).

The occupation of bike messenger is dangerous work. Thus, another skill that is required by messengers is to have a hyper-awareness of the space around them. This spatial awareness enables messengers to navigate a hectic urban environment with numerous risks and, hopefully, remain injury free. Messengers need to be able to anticipate and quickly react to the actions of motorists, pedestrians, bicyclists, and other users of road in both space and time (Kidder 2009). Steve comments:

> You need an understanding of the ebb and flow of urban traffic, being able to adapt to changing circumstances: a car pulls out in front of you, what do you do? Do you ride faster? How well can you maneuver around that? There is one thing going through my head when I am in traffic, and that's just look around, around, around, around.

For messengers, traffic in the urban environment can be understood as a set of problems that must be rapidly identified and resolved (Kidder 2009). This awareness of spatial surroundings needs to be combined with bike riding skills, otherwise bodily injury or even death could result.

Messengers need to be able to ride their bicycles with a certain degree of creativity, assertiveness, and sometimes even aggressiveness. A bike is more manoeuvrable than an automobile. Its small size allows messengers to weave in and

out of the traffic gridlock that plagues downtown cores, such as Toronto's, and to take advantage of the spaces and gaps in which larger motorized vehicles cannot fit. Indeed, a bike allows messengers to make deliveries in traffic-congested cities quicker than couriers using other forms of transportation, such as automobiles (Fincham 2006). Messengers tend to be quite proud of their bike riding skills. Steve comments: "you tell yourself that you're not doing anything terribly difficult. You're just riding a bike, but we are the top tier of cyclists in the city." While messengers realize the skill involved in riding a bike swiftly throughout the city, messengers find it difficult to project their work to others as skilled because they are, as Steve emphasizes: "just riding a bike." Nonetheless, the lack of recognition of their bike riding skills can cause considerable resentment. Richard remarks:

> I've been riding for seven plus years now and this is something I believe a lot of couriers don't get credit for. A lot of us have a lot of riding experience, because we are out here every day, you know 250 days out of the year...I've probably put on over 100,000 kilometers on my bike. And do I get any recognition for my abilities, my skills? No, nothing at all!

Messengers are skilled workers; however, without a union or some other means to define work as skilled, such as accreditation, the employer generally determines what is and is not considered skilled work and whether or not these skills will be compensated appropriately. What becomes recognized as skilled work is the result of struggles between employers and workers. It is only workers who can exercise significant power in the labour market who can demand that their skills are recognized

and be financially compensated (Beneria and Roldan 1987; Peck 1992; Fudge and Cossman 2002).

Stigma and Messenger Work

Messenger work tends to be a stigmatized occupation. Similar to workers in other socially undesirable occupations, messengers are acutely aware of the stigma associated with their work. Messenger work qualifies as "dirty work." "Dirty work" is work that outsiders perceive as disgusting, dirty, dangerous, servile, or degrading. It is work that is physically, socially, or morally tainted. Those who are engaged in "dirty work" often become stigmatized and treated as "dirty workers" (Ashforth and Kreiner 1999). Erica notes the emotional toll that this treatment can take. She comments:

> I think messengers are treated pretty scummy...It starts to grind on you, nothing that is worth getting angry and getting all up in arms and complaining about, but just things that sort of get you down psychologically, like security guards and receptionists treating you like you are really dirty.

Messengers are often treated as if they personify dirt, which impacts their sense of self. This is one of the social-psychological consequences of working in this sector. Despite being reliant on the services that messengers produce, consumers of courier services often look down on messengers and the work they do. Steve comments: "I've been to the tallest buildings in this city, delivered things to presidents of companies. I've facilitated immensely important business transactions all over the place, but in a lot of people's eyes you're nothing more than some smelly punk." By perceiving messengers

in such a way, customers of courier firms can regard themselves as cleaner, purer, superior, and more dignified than the lowly messenger (Ashforth and Kreiner 1999; Dick 2005).

Ideological processes shape what becomes constituted as "dirty work". These ideological processes arise from the shared beliefs about the appropriateness of certain social activities. What is considered "dirty work" is work that violates societal norms. Upstanding individuals should not engage in certain social activities because these are not seen as morally or socially dignified. "Dirty work" can be assigned to those who occupy the bottom-most positions in society, enabling the social elite to avoid dirtiness, both physically and metaphorically (Ashforth and Kreiner 1999; Dick 2005). However, there is nothing inherent in the occupation of bike messenger or any other occupation that constitutes it as "dirty work". What is considered "dirty work" is a social construction. What is considered disgusting, dirty, dangerous, servile, or degrading work is often based on subjective assessments of outsiders and not those who undertake this work (Ashforth and Kreiner 1999).

Those who are actually engaged in "dirty work" often see their work and themselves quite differently (Ashforth and Kreiner 1999). Allan, for example, comments: "this should be a job that we are proud of, not something that should be looked down upon, like we are dirty couriers. I don't know where that comes from. I know a lot of couriers who are very upstanding, with university degrees. We work hard and we are good people." Despite being a social construction, the stigma of "dirty

work" is quite real. Like workers in other "dirty work" occupations, messengers attempt to reframe their work to allow for a positive definition. Messengers attempt to transform the societal perceptions of their occupation by instilling their work with positive values and defusing the negative connotations associated with their work. While messengers can redefine how they see their work and themselves, how outsiders perceive messenger work and messengers is by far more difficult to change (Ashforth and Kreiner 1999; Ashforth et al. 2007).

Because messengers are seen as "dirty workers," they can be subject to degrading treatment. Recalling an accident he had, Harry notes: "I was doored[16] recently and the person who doored me actually had the audacity to say: 'Listen I have a job. I am a busy person. You are a bike courier,' while I was on the ground in pain with a possible broken rib." Such lack of concern for another's well-being displays how strong the stigma associated with "dirty work" can be. The driver could not treat someone else in such as way if he or she did not see the messenger as somehow less than him or her or as personifying dirt. Such treatment is reflective of the hyper-individualism and self-centredness that can often trump compassion or even a basic concern for others in our contemporary society. Messengers experience other degrading treatment at the hands of drivers, including being yelled at and called derogatory names. One messenger, Hank, also recalls being spit on by an automobile driver. By spitting on others and

[16] Being doored is crashing your bicycle into the driver's side door of a vehicle, most often because the driver did not check to see if anyone is there before he or she opens the car door.

calling messengers derogatory names, some members of the public attempt to assert their supposed superiority and reinforce messengers' dirtiness and marginality.

Because of the preconceptions that construct messengers as delinquents and vagabonds, authority figures, such as building security guards, often target messengers. If one messenger creates a disturbance, the entire population of messengers becomes stigmatized. One bank building in downtown Toronto, for example, has banned messengers from waiting in the lobby. Casey comments:

> We used to sit in the lobby...There were chairs there and it was never much of a problem. Then there was a problem and all of a sudden couriers can't sit in the lounge chairs in the lobby, but everybody else can. We're making deliveries in this building and were not allowed to sit in there. Fuck that! We may be waiting for clients to pick up an order but we are not allowed to sit in these chairs. We have to go wait elsewhere.

Singling out messengers and banning them from waiting at a certain location can be seen as a human rights violation based on social condition. Discrimination based on social condition is a form of discrimination based on a person's income, occupation, or level of education. Messengers are an identifiable group and they face discrimination as a group because of their occupation. They are banned from frequenting certain locations only because they are bike messengers and not because they have done something personally to warrant being barred from waiting at this location. However, discrimination based on social condition is neither included in the *Ontario Human Rights Act* nor in the *Canadian Human Rights Act*. Since it is not included, messengers

cannot take such a case to a human rights tribunal (MacKay and Kim 2009). Messengers often have little recourse to contest the discrimination that they face.

Even more problematic than being banned from a building, one messenger was assaulted by a building security guard. Nicole describes an encounter with a particularly hostile security guard, which is worth quoting at length. She notes:

> This year in January I was in a Tim Horton's. Apparently this security guard had it out for couriers. I had flat tire that day. It was a pretty bad day and it was really cold...So I went inside and I wasn't really a patron of that Tim Horton's, but I did buy stuff on occasion. I wasn't a loud person. I didn't leave garbage everywhere. I was respectful. So I go in there and borrow some tools from a friend of mine. I leave my bag in there briefly. I was fixing everything outside. I take a little test ride with the bike and come back and I lean my bike against the building just to run in and get my bag and wash my hands. And the security guard comes out and says: 'take your bike off the building. You can't lean your bike on the building'. And I was like: 'okay, yes sir, yes sir, no problem'. And he just kept on antagonizing me: 'take your bike off the building. Take you bag out of the building too'. And I am like: 'okay man.' We wound up getting into this ridiculous verbal argument and I am like: 'dude, let me do the thing that you're telling me to do instead of just yelling at me to do it faster.' It wound up [being] a physical altercation because I went to go inside to get my stuff and wash my hands and just leave....He grabbed me by the back of my shirt and tossed me around [and] threw me out.

Security guards often have inadequate training on how to do their job properly and may react excessively. Nicole describes a situation that can be seen as an example of inadequate training and excessive force (Allen and Henry 1997; Wakefield and Gill 2009). Additionally, certain types of security work, such as watching over a Tim Horton's location, offer little, if any, prestige. Security guards watching over such

locations can also be considered marginalized workers. Some security guards may attempt to exercise what little power they have over others whose occupations are seen as having even less prestige than theirs. To file a police complaint would be relatively useless, as police tend to see messengers as trouble makers who are at fault for any incident (interview with Jill).

Messengers, however, resist their stigmatized status and challenge how authority figures perceive them. As a form of protest, some messengers participate in an event called 'International Messenger Suit Day,' held annually on the first Friday of May. As the name suggests, on this day messengers wear a suit to work instead of their usual work clothes. It is a form of protest meant to mock building security guards who generally do not profile individuals who enter office buildings dressed in suits. Messengers use satire to protest their stigmatization. Humour is one of the weapons that can be used to challenge those in authority (Hart 2007). Derrick explains this protest by noting:

> One thing I helped with coordinating with other people is 'International Messenger Suit Day.' At first it was a running joke between me and a couple of other messengers: 'hey, we should get dressed for this' We put it out on Facebook and we ended up with some pictures of cats doing it in New York, cats in Glasgow. So, it was pretty cool....It is a covert protest for all the times that you're standing in an alley or wherever and you're taking five minutes to collect yourself and some security guard comes out and says to you: 'I am sorry but you can't stand here' 'Why, because I am a messenger?' In my case you might as well tell me I can't stand here because I am Black, because I don't see it any different. That's the main thing of the covert protest for all the things that you are doing that you get stigmatized for. If you were wearing a suit, doing the exact same things, most security

> guards, ninety-five percent of them, wouldn't even blink at you. But because you are dressed like this [a messenger], all of a sudden it is: 'oh, you're up to no good'. And it is: 'no, I am actually working.' I hope it grows into a true global event that people have fun with.

Clothes are often indicative of a person's status in society. A suit represents power, authority, success, professionalism, competence, and respectability, everything that messengers are not seen as possessing. International Messenger Suit Day is form of resistance that uses a cultural product—the suit—and humour to allow messengers to express their discontent with how their occupation becomes stigmatized and their treatment due to this stigma (Egan 2006; Hart 2007; Owyong 2009). Participating in events such as this one can also help to build solidarity among messengers and strengthen the occupational community, which, as Derrick's comments indicate, extends beyond Toronto.

Risk Taking and Messenger Work

Many messengers, though not all, take considerable risks as they go about their work. Such risks, however, are not the entrepreneurial kind that the self-employed are assumed to take as they undertake their work (Linder 1990). Rather, it is a type of risk taking that can place messengers in physical danger. The risk taking behaviour by messengers needs to be situated in relation to the piece-rate or commission-based pay structure in the same-day courier sector, pressure exerted by dispatchers to make deliveries quickly and on time, as well as notions of masculinity to which some

messengers subscribe. Other studies have documented that workers who are paid a piece rate or a commission are more likely to take risks and/or shortcuts in order to complete tasks as quickly as possible (Quinlan 1999; Johnstone et al. 2001). To understand risk taking in this occupation, there is a need to understand how workers' subordinated status limits the control that they have over their working conditions and their ability to contest the dangerous situations in which they are placed. Messengers, like many workers, have to accept the working conditions as they are. For messengers, these working conditions include a certain degree of risk taking and the ever-present possibility of bodily injury (Breslin et al. 2007).

Like other workers who are treated as if they are self-employed, being paid by results can encourage messengers to take considerable risks and shortcuts as they go about their work (Quinlan 1999). This is especially the case with the high-priority, high-value deliveries. Maria comments:

> The calls that are high-priority are the ones that have the most money involved with them. If they don't think that you're able to make a call on time, they're not going to give it to you. You want those calls, and if you're not quick enough or are constantly delivering things late, you're not going to get them... It just makes more sense for us not to obey traffic laws. Honestly, it is dangerous. It is not the safest thing to do.

Messengers want to secure the high-priority deliveries because they pay the most. To secure these calls, messengers must often take risks to make deliveries on time. However, it is not just the high-priority, high-value calls that encourage risk taking. The low-value of most deliveries also encourages messengers to take risks. To be able

to earn a decent income, a messenger has to make quite a few low-value deliveries per day. Sarah notes:

> You make more money if you go faster, but if packages were worth more, it wouldn't be so important to make sure that you get forty-five calls that day just to be paid fairly. If you didn't have to run reds to get your packages off on time and to get your next package, it would be a lot safer.

Messengers often feel conflicting pressures about taking risks. On the one hand, the more risks they take, the faster they can complete deliveries and the more income they can earn. On the other hand, each risk could result in bodily injury and potentially even death, something of which messengers are acutely aware. The pressure on messengers to take risks because of the piece-rate pay structure is considerable. Yet, at the same time, their body is their main economic asset and they need an undamaged body so that they can work again the next day. Messengers do not take risks for no reason. Messengers take risks to increase their income. While risk taking can potentially increase their income, it would be disingenuous to suggest that the risks messengers take are entrepreneurial risks.

Same-day courier firms appear unwilling to restructure their business operations in a more rational manner to allow messengers to earn a decent income without taking numerous risks. Messengers are often seen as disposable and, with the high turnover rate, new workers willing to take risks can be easily found in the labour market (Pupo and Noack 2010; interview with Jay; interview with Paul). Courier firms see having packages delivered on time to satisfy their customers as more important than ensuring

that messengers can do their job in a safe manner. As Ian notes: "sometimes when you're feeling stressed out and it feels like you're not going to get everything off in time, when it gets a little bit stressful, I will suddenly throw caution to the wind." The pressure to complete deliveries on time can either be direct or indirect. Most of the time, however, it is indirect pressure. Same-day courier firms, at least in other cities such as New York, are known to operate on a "don't ask, don't tell" policy with regard to risk taking and the breaking of traffic laws (Kidder 2009). This also appears to be the case in Toronto. For liability reasons, a dispatcher cannot tell a messenger to explicitly break traffic laws or take other risks to complete a delivery on time; however, dispatchers can put indirect pressure on messengers to take risks. Casey comments:

> I've never felt for them to say: 'hey, go, go, go, go, go.' Sometimes [my dispatcher] will call me up and say: 'hey, help me out. This call has been sitting there all day'. Other times he won't even say that. He'll just put the call on my hook and I'll say: 'Holy cow, this call is already almost dead,' but not to the point where they are making me feel that I have to [take risks]. It is something that I put on myself.

Some messengers internalize the "don't ask, don't tell" policy and distance themselves from the notion that it is the courier firms and the organization of work, in particular the pay structure, which encourage messengers to take risks. Nonetheless, as Casey notes, if a call is "almost dead"—that is, the time in which a letter, a package or a parcel is supposed to be delivered is almost expired—a messenger can often feel considerable pressure to take risks to complete the delivery quickly. Again, since it is a

highly competitive industry, courier firms are afraid of losing customers if deliveries are not made on time. As a result, firms end up placing messengers in potentially dangerous situations to keep and satisfy their customers. By maintaining a "don't ask, don't tell" policy, courier firms display a lack of regard for messengers' safety. Such a policy also allows courier firms to avoid implementing safety measures that could be costly or slow down production (Baron 2006).

Risk taking, or at least its justification by some messengers, needs to be seen in relation to traditional constructions of masculinity with which some messengers identify. Ideological processes also shape risk-taking behaviour. Masculinity is displayed through a set of practices and discourses that indicate that someone is a man, and has to be 'proven' in specific contexts (Collinson and Hearn 1994). In the messenger occupation, masculinity is often proven by riding a bicycle in an aggressive way, which includes taking risks. Masculinity also involves not complaining about the risks that one faces on the job, as complaining can be taken as a sign of weakness and an inability to do the job like a *man* (Baron 2006; Morgan et al. 2006; Breslin et al. 2007). For some messengers, risk taking forms a central part of their identity. Gerry, for example, comments: "that's my personality though. That's got nothing to do with the company. That is me. That's how I ride. That's the way I've always lived. All of my jobs have been on the wild side: construction, high rise window cleaning; all these jobs [are] really crazy jobs." While risk taking is common in this occupation, many messengers insist that they do not take risks in a haphazard manner. Gerry continues:

"there is a way of taking risks. There is planned risk and then there is dumb risk. I am a planned risk kind of guy…Sometimes there is a dead red light there. Go through it. You're on a bike." Despite what messengers may see as calculated risk taking (Kidder 2011), they are still, nonetheless, placed in dangerous situations. With the "don't ask, don't tell" policy, safety at work becomes the responsibility of the worker, allowing the courier firm to avoid taking accountability for the manner in which messengers work and any injuries that may be sustained as a result (Barab 2003; Mogensen 2006).

Messengers are socialized into risk taking and may come to see it as an intrinsic element of the job (Breslin et al. 2007). A central component of the cultural image of the bike messenger is that he or she is a risk taker (Kidder 2011). Jay, for example, comments:

> I used to [take risks] but not anymore…I thought that was the way I was supposed to do it. Back again to the preconceived notion about bike couriers, you take the risks because you think you have to take the risks. You really don't. It is like a two second difference. That's why I don't do it now. I don't really care about the client and getting the calls off on time.

Since the turnover rate is relatively high, new messengers who are willing to take risks are continually entering the occupation. With time, however, as Jay's comments indicate, risk taking appears to decrease. New workers, on the other hand, may feel as if they have to take risks in order to do the job properly as a real messenger. In the hiring process, some same-day courier firms also suggest that risk taking is a required aspect of the messenger job. Paul comments: "they are basically hiring you and saying: 'you're willing to do this, right?' 'You're willing to risk your life, right?' And you're

saying like an idiot: 'yeah, of course. I want to be rebellious and ride my bike.'" Employers have preferences about what types of workers they hire. Risk adverse individuals are likely not to find employment in the bike messenger occupation (Wehr 2006 & 2009).

Gender is important to take into account when looking at workers' risk-taking behaviour and why employers may prefer men or women for particular types of labour processes. Employers often see men and women as workers with different qualities, and this differentiated view is often established through binary oppositions, such as risk-prone/risk-adverse, courageous/cowardly, brave/timid, careless/cautious, and strong/weak (Salzinger 2003; Caraway 2007). In occupations where risk taking is commonplace, employers may prefer men, who are often seen as less risk adverse (Wehr 2009). If messengers did not take any risks—stopped at every stop sign and red light and obeyed all traffic laws—it would be difficult for same-day courier firms to ensure the quick deliveries in the downtown core for which courier firms charge premium prices (Paap 2006). Because of perceptions of which gender is deemed capable to do messenger work, as well as which gender is more apt to take risks, men appear to be the preferred gender for this occupation.

While risk taking by messengers ensures that profitable production can occur, risk taking can simultaneously be seen as a form of resistance. However, it is not a form of resistance necessarily or only directed against the employer. Rather, risk taking can be understood as resistance to societal conventions on the proper way to use the road as a

bicyclist. The way in which some messengers ride their bicycles throughout the city as they go about their work disrupts normal conventions surrounding road use and road manners (Fincham 2007). Discussing how he rides throughout the city, Allan remarks:

> I do risky stuff. I get right up next to cars. I get right in front of cars when I am changing lanes. I don't do it like I am a maniac or that I have a death wish, but I do it with confidence...I take pride in the fact that I am able to make those maneuvers and ride like that. I also like doing it because it is fun. It is really satisfying to be able to move that quickly through the city.

Risk taking makes the job of being a messenger less alienating. It is also something they tend to find enjoyable and allows for a sense of accomplishment (Wehr 2009). Since it is not officially sanctioned by courier firms, risk taking allows messengers to exercise some autonomy in the labour process. Being a messenger in and of itself can also be seen as a form of resistance to the alienating and low-skilled manufacturing and service sector jobs in which these workers would otherwise likely find themselves (Kidder 2011). To be sure, many messengers see working as a messenger as an alternative to mainstream forms of employment (interview with Paul). Risk taking can then be seen as a form of resistance, even if it ultimately helps to ensure profitable production for same-day courier firms (Burawoy 1979). Fortunately, most of the time risk taking does not result in injuries; however, risk taking or even just riding a bike in a traffic-congested city can result in injuries, and because a bike offers no protection, injuries can be quite serious. The next section thus examines occupational health and safety in the messenger occupation.

Occupational Health and Safety and Messenger Work

Whether or not they take risks or break traffic laws as they go about their work, messengers have a high rate of occupational injuries. Messengers work in a dangerous urban environment where the car is dominant. Using a vehicle that offers no bodily protection, they enter this urban environment and risk life and limb to eke out a meagre income. Focusing specifically on occupational injuries, a study of Boston bike messengers found that ninety percent of messengers have sustained some sort of injury at work. Seventy percent of messengers experienced an injury that required taking a day or more off work. Fifty-five percent needed medical attention because of an injury. And twenty-seven percent had an injury serious enough that it required a hospital visit. The types of injuries include: cuts, scrapes, lacerations, bruises, contusions, skin abrasions, fractures, sprains, strains, dislocations, and concussions. Knee, shoulder, and head injuries are the most common. Messengers in Boston have a higher injury rate of occupational injury than meat packers, which is considered among the most dangerous occupations in the US. Most injuries are a result of either colliding or an attempt to avoid collisions with vehicles, other bicyclists, or pedestrians. While bicycling in general in traffic-congested cities can often lead to injuries, bike messengers are at higher risk than commuting or recreational cyclists because of the amount of time they spend on the road (Dennerlin and Meeker 2002). Reflecting the injury rates in the Boston study, close to ninety percent of messengers that I interviewed have sustained some sort of injury on the job. Injuries range from minor

bruises and scrapes to quite serious ones, such as fractures and concussions. Two messengers can no longer work as messengers because of the injuries sustained on the job. In November 2012, one messenger died as a result of an accident with a taxi while working in Toronto. While tragic in and of itself, his belongings, including his messenger bag, somehow ended up in the garbage (Piffer 2012).

In the messenger occupation, injuries are something to be expected. Seeing injuries as inevitable decreases the pressure on employers to ensure safe environments for their workers. Eric, commenting on how being injured is often seen as unavoidable, notes: "there is always a chance you're going to go down or get hit. It's just a matter of time. Some people never get hit. Others get hit all the time. There's always a chance of it. Car versus bike: the bike is always going to lose." There is a tendency among messengers to discuss accidents and injuries in a nonchalant fashion. This can be understood as a coping strategy. Dealing with the potential for injuries in an indifferent fashion is a form of risk socialization, a process in which workers learn to accept and not complain about dangerous working conditions and the injuries that could result (Breslin et al. 2007). Injuries need to be seen as a result of courier firms not organizing work so that it can be done in a safe manner. Employers need to be held accountable for the manner in which workers undertake their work, and ensure they do it safely (Barab 2006; Breslin et al. 2007).

Injuries can result from the pressure messengers feel to complete deliveries quickly. The priority for courier firms is making deliveries within the timeframes

requested by customers, not the safety of their workers. While it does not appear to be a common occurrence, being pressured directly by the dispatcher to make deliveries quickly can and does happen, and it can also result in bodily injury. Nicole comments:

> I was going along at top speed, because I was in a rush and my dispatcher was telling me: 'go to blah, blah, blah. This delivery has turned into a super-direct. You got to go now. Go, go, go!' I was like: 'oh god.' So I am like biking as fast as I can down Bloor, not even paying attention to what's around me, and I am coming to Mt. Pleasant and this car was turning and I didn't notice. I am coming along the curb and this car is about to turn. It turns and I am 'whoa'. I slid alongside of the car as it was turning. I just sort of slid alongside of the car and I took off their passenger side mirror with my hip. My hip was so bruised. I thought I had caused internal bleeding, but I was fine. It was just a huge, huge bruise. I took a day or two off for that injury.

In such circumstances, the dispatcher and the courier firm should be held liable. Messengers, however, often find it difficult to question the dispatcher's instructions to make a delivery quickly, regardless of the possible consequences to their own physical well-being. Questioning the dispatcher could threaten the type and number of deliveries that a messenger will be allocated in the future. The dispatcher may see a messenger as not having what it takes to do the job if a messenger questions the safety of his or her work. Messengers' dependency on a courier firm, and not wanting to be placed on the dispatcher's blacklist, tend to hamper their ability to challenge or even complain about unsafe working conditions (Breslin et al. 2007).

When messengers are injured and cannot work, they face many difficulties in receiving adequate compensation. Messengers are supposed to be automatically

covered by the Workplace Safety and Insurance Board (WSIB). Messengers are one occupational group that the WSIB has deemed to be automatically covered regardless of their employment status. The WSIB classifies the courier sector as a Schedule 1 Industry. Coverage for workers, but not independent contractors, is mandatory; for the purposes of WSIB, messengers are considered workers and, therefore, covered regardless of how their employer may classify them (WSIB 2002). However, it appears to be a common enough practice in Toronto for same-day courier firms not to pay into WSIB and also deceive messengers about their automatic coverage. Messengers are told when they are hired that the courier firm does not pay into WSIB. This is also stated on the contract that they sign (Contractor Information Package n.d.). Because of employer manipulation, most messengers are under the impression that they are not covered by WSIB. Messengers also tend to be younger workers and younger workers are often unaware of their rights at work and are, therefore, more likely to accept what their employers tell them as factual (Linker et al. 2005; Breslin et al. 2007).

Some courier firms pay compensation to messengers directly when they are injured and unable to work. In other words, messengers are paid off to not report injuries to the WSIB. Bill comments on how this arrangement works with his employer. He notes:

> They pay people $80 a day, which I've received two days of when I got hit...But I mean it is an under-the-table deal. Once again, we're at the whim of our employer. We take that money and don't report it to WSIB and then maybe we have chronic pain for the rest of our lives. Our employer will pay

> us for a bit, but they're not going pay us for the rest of our lives, and if we go to WSIB that is like picking a fight with the company.

As he did not sustain a serious injury and only took two days off work, Bill did not pursue a compensation claim through WSIB. If he took this claim to WSIB, he would negatively impact his relationship with the courier firm and the allocation of deliveries he receives from the dispatcher in the future. Since they are treated as self-employed, messengers are quite vulnerable to the whims of their employer, who could end the contract or otherwise discipline workers at any time. While it is illegal for same-day courier firms to operate injury compensation schemes in the manner they do, and they could face fines and criminal charges as a result (WSIB 2002), there appears to be a lack of any proactive enforcement to ensure that same-day courier firms who employ bike messengers are paying for WSIB coverage. If the risk of detection is low, same-day courier firms may find that it is more economical for them to pay an injured messenger directly than to abide by their legal responsibilities to pay for the coverage for their workers.

While some courier firms pay messengers direct compensation for injuries sustained on the job, many do not while also not paying into the WSIB. Since messengers who work for these firms are also under the impression that WSIB does not cover them, they often end up working while injured. Jill comments on what she has seen. She notes: "there are people who will come to work with broken arms because they need to make money. They can't stay home and work on getting it fixed or work on getting better." Because they are not paid if they cannot work, some

messengers disregard their own physical well-being and place themselves in further physical jeopardy by working while injured. Most messengers cannot afford to take time off to heal and recover adequately. Erica also discusses how financial pressures have compelled her to work while injured. She comments:

> I've never taken time off work because of my injuries...I have biked around injured a couple of times. I have also biked around with damage to my bike, but I have never taken time off, because I need money...If I can still stand up and bike around, I don't want to tell them that I can't work.

As other research has shown, because of financial pressures, workers who are treated as independent contractors are more likely to work while injured or recovering from injuries than workers who are treated as employees (Mayhew et al. 1997; Mayhew and Quinlan 2006). Taking time off because of an injury can jeopardize a messenger's relationship and status with the dispatcher. To take time off for an injury may constitute a particular messenger as unfit and unwilling to do the job in the eyes of dispatchers.

It is not only financial pressures, lack of sick days, and lack of compensation that encourage messengers to work while injured or still recovering. While these are central factors, some courier firms directly pressure messengers to return to work while injured and still recovering. Jay, for example, comments:

> When you get injured the company will want you back on the road ASAP. This winter I crashed in a blizzard and busted my knee pretty bad. I got in a lot of trouble for taking two days off. I came back and my knee wasn't healed. My knee was still sore. It is persistent. It will go away but it will come back. It will creep back in on me and I am worried that that will be a long term

> factor, something that I will be dealing with for the rest of my life...Working through an injury is common because there is no compensation, no paid vacation or time off that you can take. We have to really suck it up and work through it.

Being disciplined for taking time off work while injured and recovering exerts considerable pressure on messengers to return to work in spite of the damaged state of their bodies. Messengers also report working while sick because they cannot afford to take a day off without pay (interview with Chris). Working while injured or recovering from injuries is a result of messengers' disguised employment relationship and employer deception about messengers' WSIB coverage. Messengers do not want to risk jeopardizing their relationship with the firm by taking time off work or reporting injuries to WSIB. To keep their jobs, they have to show up for work regardless of their physical state.

Employers often view injured workers as disposable in the same-day courier sector, and quite a few messengers are left on their own to cope when injured. Messengers resent this blatant lack of concern. Derrick comments:

> People can get injured doing this all the time, and it's not good. I don't know how any company owner sits right with himself knowing that somebody, who might have made $300 that week or worse, breaks their collar bone and are they're out for six weeks and they are fucked for that time.

However, with the high turnover rate in the industry, there are plenty of healthy, uninjured bodies in the labour market that can be used and abused and then discarded. The messenger labour process requires healthy functioning bodies, but this labour

process, like other capitalist labour processes, can often end up damaging workers' bodies (McNally 2001).

Because of the negligence of courier firms to pay for WSIB coverage for their workers, and because of the unawareness of many messengers that they are automatically entitled to coverage regardless of their employment status, messengers from all over the world have established the Bike Messenger Emergency Fund (BMEF). The BMEF is an international fund and a form of mutualism. Mutualism in this context can be understood as a voluntary arrangement in which workers of a particular occupation contribute to a collective fund, which is then given to injured workers according to specific rules established by contributors (Van der Linden 2008). Eric gives some background on why the BMEF was established and how it works. He notes:

> You could take it to WSIB, but then it is a huge fight with your employer to try and get compensated, because they don't pay into workers' comp...Globally, messengers have set up the Bike Messenger Emergency Fund, which helps out people who have been in an accident or are unable to work because of occupational hazards. Every year in Toronto I help to organize something called May Day,[17] which is a fundraiser for BMEF. I try to pay into it whenever I can. I know some people who have had to use it and it really helps out.

The purpose of the BMEF is to help injured messengers recover. While the fund does help out messengers who are injured on the job, the fund is not an adequate form of compensation, especially if the time off work is for an extended period. The maximum

[17] May Day consists of an alley-cat race and an after-party; it is held on the first Saturday in May in Toronto (interview with Eric).

payout for an individual messenger is $500 and it is only meant to help injured messengers for the first week that they are unable to work (BMEF n.d.). Nonetheless, the fund is an immediate form of assistance, and it is valued by messengers who have used it. The fund is a reflection of the occupational solidarity found in the messenger community, and displays the commitment and concern that these workers have for each other, even for messengers on the other side of the globe (Wehr 2010).

Occupational hazards in the messenger occupation are not limited to the acute injuries sustained on the job. Messengers are also concerned about the long-term health consequences of working as a messenger. Polluted city air and other environmental contaminants are an occupational hazard in the messenger occupation. Working outdoors is often assumed to be healthy; however, outdoor workers engaged in strenuous physical labour where the air is polluted are at an increased risk of acquiring medical conditions such as asthma, heart disease, and lung cancer (DeMarini and Claxton 2006; Tovalin et al. 2006). One messenger, Derrick, attributes his asthma to the polluted city air that he breathes while working. As he comments: "I call it a smog-induced asthmatic condition." However, workers often accept that breathing polluted city air and being subject to other environmental contaminants are something that they must put up with if they are going to work as messengers. As with other hazardous aspects of the job, breathing in polluted city air and its associated bodily damage are often accepted as just part of the job (Breslin et al. 2007). Nicole, for example, comments:

> You're constantly in, around, behind, and in between cars, which are really polluting. They are constantly spewing out god knows what. There is like a layer of filth on you, because you are constantly in the smog and the dirt. You got dust flying up at you all the time. In the winter you've got the slush. So you're worried about breathing in crap and eating road salt and whatever else is in the dirt that is flying into your face and mouth. There are so many risk factors as far as health and safety goes, but that's life. Life is dangerous!

Messengers' concerns about the long-term impacts of breathing polluted city air and dealing with other environmental containments are well founded; nonetheless, as Nicole's comments suggest, messengers often feel that they can do little to improve the conditions under which they labour. Like other workers with little bargaining power, messengers reluctantly accept working conditions as they are.

Since messenger work is a physically intense occupation, over the long term this work can take a considerable toll on the body. Again, this is often accepted as an inevitable aspect of the job. Ian, who has been working as a messenger for almost a decade, notes:

> My knees are getting destroyed. My back is always sore. My muscles are always tense. My tendons are always super tight... I am wearing out my knees. I got arthritis in both of my knees really bad, and that is definitely a result of nine winters of cranking pedals...but what are you going to do?

A destroyed body is often an expected and accepted consequence of working as a messenger. To be sure, destroyed bodies are part of the historical legacy of the capitalist mode of production. "Capital", as Marx argues, "asks no questions about the length of life of labour-power. What interests it is purely and simply the maximum of the labour-power that can be set in motion in a working day" (1976: 376). Because

they are poorly paid disguised employees and cannot afford to take sick days to recover if feeling fatigued or unwell, messengers are not in a position to adequately protect the integrity of their bodies. They also have no benefits, such as physiotherapy, massage, or chiropractic coverage, to help heal their bodies. With their low income, messengers cannot afford to self-insure or pay out of pocket for these expenses. Bill comments:

> The job is hard on your body and you don't really get recovery time. We need to be able to take paid leave where we can rest and let our bodies recover...It probably just gets worse as you get older. You end up getting little nagging injuries and you have to go to work every day no matter if you are hurt or if you just have a nagging little injury that you can sort of work on. You're probably just doing more damage by carrying on.

For messengers, the state of their body is a concern. Their body is their main economic asset and it has to be in an adequate state in order for messengers to be able to work. However, because of their disguised employment relationship and the piece-rate pay structure, messengers feel pressured to engage in a physically intense labour process on a daily basis, without adequate time for their bodies to rest and recuperate. A day off is a day without earning an income and few messengers can afford to take this time off work without pay.

When discussing their work, some messengers note the emotional and mental stress that can result from messenger work. Messengers develop coping strategies to deal with the wear and tear done to their bodies, as well as the emotional and mental stress from the job. Some strategies they use, however, are not necessarily the

healthiest ones. Steve comments on how he deals with the stress of messenger work and the wear and tear on his body. He notes:

> It is really easy to go and drink a six pack every day. When you work so damn hard and every muscle hurts, you just want to go and make that go away. I've been a beer at 2:00 in the afternoon type of guy. I've been that guy for months at a time. I've been the wake-and-bake stoner who's ridden around with my sunglasses, listening to music, just barely tuned in, going: 'yeah, yeah, here you go,' just trying to put a Band-Aid on the real wound.

Some messengers use drugs and alcohol to cope with some of the consequences of messenger work. While messengers may have had drug or alcohol issues before they entered the occupation (Kidder 2009), drug or alcohol use is also related to the conditions of work that messengers endure. Jay, for example, connects drug and alcohol use with the conditions of employment. He comments: "there is so much alcoholism and drug use because everybody is depressed. Nobody is happy. Everyone is really run down and tired." In other studies, a stressful or averse working environment, work overload, insecure employment, a lack of control over the labour process, and the ever-present possibility of being injured on the job have been correlated with worker alcohol and drug use, both on and off the job. Put simply, drug and alcohol use is a way to cope (Frone 1999 & 2008; Mayhew and Quinlan 2006). Workers, especially men with low-status and low-paying jobs, often do not have adequate social resources to deal with the stress of employment. Men are more likely than women to turn to alcohol and drugs in order to deal with the pressure and stress of work. Dealing with the pressures of work then also needs to be understood in gendered

terms (Williams 2003; Morissette et al. 2006). However, since employers generally expect workers to show up and remain sober while at work, drug and alcohol use can also be seen as a form of resistance to the terms and conditions of employment. An intoxicated worker is likely not to be as productive or efficient as a sober work. Whether drug and alcohol use is seen as a coping strategy or a resistance strategy depends on whether workers are using drugs and alcohol to numb themselves to the conditions of work or to slow down production and decrease productivity (Cohen 1980; Warren and Wray-Bliss 2009). Nevertheless, while there are many negative consequences to working as a messenger, messenger work is not all burdensome toil.

Work Satisfaction and the Messenger Occupation

Work in capitalist societies can often be experienced as oppressive, dehumanizing, and alienating; however, not all of work is experienced as such, even the most precarious forms of employment (Ezzy 1997). Messenger work is precarious: the pay is low; employment is insecure; there are no extended benefits; much of the public look down upon messengers; and the rates of occupational injury are quite high. In spite of this, many messengers genuinely enjoy much of the content of their work and derive considerable satisfaction from it. To be sure, this is why many messengers entered the occupation in the first place (interview with Eric; interview with Derrick). The satisfaction that they receive from their work is also well documented in the literature

on the bike messenger occupation (Fincham 2007; Kidder 2011). Sarah, for example, comments:

> I love being on my bike. My best moment working was the first winter I worked in Toronto and I remember riding in between picking up packages and I remember just thinking to myself: 'I am the happiest person in the world right now'. I was just so content. I found inner peace just being on my bike.

Most messengers are bike enthusiasts. They enjoy being outdoors and being able to ride a bike for a living. Through their work, messengers experience a sense of freedom along with other positive emotional sensations. Steve explains: "[I like] the sheer freedom of riding your bike around, maneuvering about the city, [and] challenging and pushing yourself." These pleasurable emotional feelings messengers experience through their work is what some scholars refer to as affective job satisfaction (Thompson and Phua 2012). Despite the many negative consequences of messenger work, messengers do have an affinity with their occupation and genuinely enjoy much of what they do. Many people also attempt to find the fulfillment and satisfaction that Sarah and Steve describe in their leisure or non-work activities. Messengers, however, are able to experience these *in* their employment. As Paul suggests: "for me, it is like half-fun and, at the same time, half-work." As marginalized workers, bike messengers tend to have limited employment opportunities elsewhere. The employment that they could otherwise find would likely be alienating and boring. In this sense, being a messenger can then also be understood as form of resistance to the alienating and deadening work often found in capitalist societies (Fincham 2007; Kidder 2011).

Messengers also see their job as challenging and to make it more challenging, they often turn work into a game (Burawoy 1979; Stewart 2004). Peter, for example, comments: "I like the challenge of getting from one place to another quickly, especially if it is really far. Sometimes for the fun of it, I'll just bike really hard to see how fast I can get there." Challenging oneself by riding a bicycle swiftly throughout the city and completing tasks as quickly as they can is one way messengers make their work exciting and stimulating. Completing tasks quickly also allows for a sense of accomplishment and pride. Indeed, bike messengers often boast about making deliveries quickly across considerable distances (interview with Maria), which also solidifies their status as a competent messenger in the occupational community. Having challenges in one's work is a central to finding intrinsic satisfaction therein (Arneson 1987). By creating challenges, messengers also use their bike-riding skills to direct labour process in an autonomous and creative manner. To be sure, much work under capitalism does not allow for such creativity to be expressed (Marx and Engels, 1970; Marx 1976).

If workers derive intrinsic rewards from work and experience it as a creative and enjoyable activity, they may acquiesce to many aspects of the job which are experienced as less than desirable. Turning work into a challenge and a game can help to secure workers' consent to the precarious terms and conditions of employment (Burawoy 1979). Messengers, however, are not dupes. They are aware of being a

highly exploited workforce, but, at the same time, they also enjoy their work. This can lead to contradictory feelings about their work. Paul, for example, comments:

> I see myself as a tool. They use you. It sucks. It is not right. But at the end of the day I am getting paid to be outside. And that's where my heart is at right now. Maybe when I am thirty-five I wouldn't put up with that, but I'm only twenty-four and I get to ride my bike.

As Paul's remarks suggest, conceptualizing some aspects of the job as enjoyable and rewarding helps to neutralize workers' resentment to the other aspects of work which are seen as undesirable. Non-instrumental, intrinsic rewards of the job do motivate workers to stick with their jobs, work hard, and undertake their tasks diligently in spite of the lack of job security and adequate income associated with messenger work (Padavic 2005). Some research suggests that intrinsic rewards may be the most important factor in determining overall job satisfaction (Mottaz 1985). Messengers do receive intrinsic rewards from the work; however, this should not be taken to mean that they are satisfied with their employment, and it should not obscure the fact that they constitute a highly exploited workforce.

Messengers work alone: they are not dependent on any coworkers to complete their tasks. Despite the solitary nature of their tasks, bike messengers have frequent contact with each other. As they all work in a relatively fixed geographical area—downtown Toronto—they have developed close relationships with each other and this has helped to build a strong occupational community. Messengers value their relationships with other messengers and the resulting occupational community that has

developed. Ivan, for example, comments: "people know each other, so definitely there is a sense of community. After a while, whether you want it or not, people know you. They see you every day for two years. They know who you are. They say, 'hi' to you. If you're anti-social or not, you are part of the scene." Quite a few messengers note that spending time and developing friendships with other messengers are among the more rewarding aspects of this occupation. Jill, discussing one her favourite moments working, comments:

> I had a day that I was having a lot of really good calls so I was in a good mood and one of my closest friends is a bike messenger, and from Queen Street all the way to Bloor Street we had our arms around each other and rode our bikes all the way up Bay Street. That has always been one of my favourite memories.

As other research indicates, developing and maintaining relationships with co-workers in and beyond the workplace are also important aspects of overall work satisfaction. This appears to be the case for messengers who also spend considerable time together outside of working hours (Mottaz 1985; interview with Paul).

Messengers also tend to be concerned for each other, even those whom they may not know personally. Chris, for example, comments: "you see other couriers a lot and you wonder: 'is he getting paid okay? Is he being treated well? Does he like what he is doing? How long has he been doing it?' You wonder about these other people." As low-paid workers who are often treated poorly by their employers, messengers tend to have empathy for each other. They know how abysmally messengers can be treated. Because of the concern they have for each other, messengers tend to watch out for

each other. Ian, recounting one of his favourite memories working, notes: "there was this time I saw a couple of guys pushing a bike that I recognized who it clearly didn't belong to. I basically mugged them for it and got it back for its owner, [another bike messenger]. I felt great about that." Messengers have a strong commitment to each other and practice many forms of mutual aid. Without a bike, his co-worker would not be able to work. Messengers value the relationships that they form with other messengers and they will watch out for each other as well as practice other forms of solidarity. Consequently, messengers have built up a rather strong occupational community in Toronto, and it is a community they tend to value highly.

Conclusion

Messengers are marginalized workers and have limited power in the labour market to demand proper compensation for the services that they provide. With the low and fluctuating pay, messengers often suffer from income insecurity, leading to such things as food insecurity. Messengers are also pressured to perform unpaid work as part of their employment and contesting this unpaid work is difficult for messengers. The ways in which others treat messengers can often be quite reprehensible, thus taking a considerable emotional toll on workers. However, messengers also contest the negative perceptions that some of the public have of them, such as through satire and the mockery of the security guards who profile them. Occupational health and safety are also serious issues for messengers. Injury rates are quite high in the messenger

occupation and same-day courier firms tend to have little concern for their workers' physical well-being. Employers use and abuse messengers' bodies to turn a profit. Many of the negative consequences of messenger work are the result of their disguised employment. Employee status would not necessarily eliminate these negative consequences, but coupled with union presence in the sector, employee status would likely help to ameliorate some of them.

While there are many negative consequences that result from working as a messenger, many messengers enjoy much of the content of their work, and they see the services that they provide as having value. Messenger services are crucial for businesses, institutions, and other organizations, which require the quick delivery of documents and other items in downtown Toronto. With an emphasis on just-in-time delivery and the need to have information and other goods moved as fast as possible, messengers are critical to the operation of the city's communication and distribution networks. Another positive consequence of messenger work is the friendship they develop with co-workers. Based on these friendships, messengers have built a strong occupational community in Toronto, which they value highly. While working in the same-day courier sector does allow messengers to experience some intrinsic satisfaction from their employment, it, nonetheless, remains precarious. To improve their situation, some messengers believe collective action will be necessary. To begin to explore how employment conditions may be improved through organizing, Chapter Seven looks at forms of unionism—both historic and contemporary—practiced by

workers and highlights the forms that may be applicable for messengers, while Chapter Eight specifically examines the CUPW courier organizing campaign.

Chapter Seven:
Unions in Today's Political Economy

Introduction:

In modern capitalist societies, an inequality in bargaining power between workers and employers tends to inform employment relationships. The labour market is not a democratic sphere and neither are individual workplaces. Employers are able to impose the terms and conditions of employment upon workers; however, employers do encounter worker resistance. The effectiveness of this resistance is largely dependent on the strength of workers' organization (Hyman 1989). One purpose of labour law and collective bargaining is to help rectify the inequality in bargaining power between employers and workers in the labour market. Affording workers the right to associate and bargain collectively does not mean that workers and employers will all of sudden be able to exercise equal bargaining power over the terms and conditions of employment. Employers still have the upper-hand. Nevertheless, the imbalance of power will be considerably less if workers have these rights (Davidov 2004).

Not all workers, however, have the rights to associate and bargain collectively. Most workers who are considered independent contractors do not. Apart from the *Status of the Artist Act*, which applies only to artists, and specific legislation covering some workers in the construction sector, under the current collective bargaining regime in Canada, only workers legally classified as employees or dependent contractors can form unions and bargain collectively with their employer (Fudge 2003; Davidov 2004; Cranford et al. 2005; Vosko 2005). If workers are in disguised

employment relationships and want to avail themselves to the collective bargaining regime, they first have to prove in front of a labour board that they are employees, or at least, dependent contractors. However, it is not just disguised employees who experience significant challenges when trying to organize. The expansion of forms of employment departing from the standard employment relationship, the decline of manufacturing and the rise of the service sector, changing state policies towards employment and economic matters, and growing anti-union sentiment among employers and the state have created numerous obstacles for trade unions attempting to organize and represent workers, even if these workers can prove or already have the status of an employee.

As I argue in this chapter, unions need to resort to a range of different organizing models to respond to changes in the political economy, such as the proliferation of small and decentralized employers in the service sector. Unions also need to explore alternative forms of organizing to deal with transformations in work relationships that depart from the standard employment relationship, as well as to come up with strategies to combat disguised employment relationships. To revitalize the labour movement and to organize unorganized and marginalized workers, the "business as usual approach" needs to be abandoned. With the decline in manufacturing jobs and with the service sector accounting for a growing share of substandard employment, the dominant models of unionism—particularly industrial and business unionism with

worksite locals and bargaining units—are losing relevance for a growing number of workers (Cranford et al. 2005; Kumar and Schenk 2006)

To this end, this chapter examines historic, current, and emerging form of unionism to explore their relevance in organizing disguised employees in sectors where firms are often in cutthroat competition with each other. Recalling the content of previous chapters, I begin with a brief discussion of some of the justifications for allowing some groups of workers, such as employees and dependent contractors, to associate and bargain collectively. I also address some of the problems with restricting collective bargaining rights to only these workers. In the following section, I explore the dominant models of unionism—industrial and business unionism—and stress the limitations of these models for a growing number of workers. Next, I survey three historical models of organizing—craft, occupational, and metropolitan unionism—and review their relevance for organizing workers in current times. I then examine two emerging forms of unionism—social movement and community unionism—and also assess their applicability to organizing workers in the current political economy. I end this chapter with a discussion on which features of these models of unionism may be most applicable to organizing bike messengers in Toronto's same-day courier sector.

Why Workers Still Need Unions

Competitiveness is one of the underlying principles of liberal market economies. While an ideal instead of a reality, competitive markets are supposed to be based on

supply and demand where no individual or entity has disproportionate power to influence the prices of commodities, including labour-power (Peck 1996; Lipsey and Chrystal 2007). Collective action by individuals, businesses, or organizations in any market is generally viewed unfavourably because it is seen as reducing competition and as a conspiracy in the restraint of trade. Any sort of collective action that reduces competition must, therefore, be warranted before the state recognizes it as legitimate rather than condemn it. Historically, the economic and political elite in Canada saw collective action and bargaining by workers as a serious threat to the overall social order, as well as their privileged positions in society; they did much to thwart the establishment of these rights for workers (Fudge and Tucker 2000; Cranford et al. 2005). For workers, gaining the rights to associate and bargain collectively in Canada has been the result of long and militant battles with employers and the state, beginning in the nineteenth century and continuing on throughout the twentieth century. In the face of the current employer and state offensive, many rank-and-file unionists and dedicated organizers continue to defend and advance these hard won rights in the twenty-first century (Palmer 1983; Butovsky and Smith 2007; Goldfield and Palmer 2007).

In capitalist societies, inequality tends to mark social relationships. With ideologies that promote individualism, entrepreneurialism, and competitiveness, inequality of outcome is often seen as resulting from personal initiative, or the lack thereof, and is, therefore, generally accepted as legitimate. It is only when inequality in

particular relationships reaches a certain threshold or results in socially unacceptable outcomes that the state may be pressured to use legislation to intervene. Because employers have the upper hand in the labour market, the labour market is one realm in which the state intervenes by allowing for collective bargaining by workers (Davidov 2004). Collective bargaining establishes a countervailing power in the labour market. In the same-day courier sector, with the disproportionate power courier firms can exercise over messengers, such a countervailing power is vital. The necessity of a countervailing power can be advanced as one of the justifications for allowing workers to associate and bargain collectively in liberal market economies. When workers attempt to bargain individually over the terms and conditions of their employment, it can often be to their own detriment, as workers are placed in direct competition with each other, which tends to result in lower pay, fewer benefits, and substandard working conditions. Collective bargaining and its countervailing power can work to counteract this tendency (Arthurs 1965 & 1996; Cranford et al. 2005).

Another justification for allowing workers to associate stems from the recognition that labour-power—workers' capacity to work—is not just a commodity, or, as the ILO stressed in the 1944 *Declaration of Philadelphia*, labour-power is not a commodity whatsoever. While treated as such, labour-power cannot be considered as just another commodity (Polanyi 1957). Employers, however, buy labour-power as if it were a commodity. As with any other commodity they need, employers follow the logic of the capitalist mode of production, which means they will try to secure labour-

power for the lowest cost possible (Peck 1996). Without unions, employers will attempt to organize labour markets and employment relationships in such a way as to increase their own profitability through lower wages, fewer benefits, and substandard working conditions. Because of the employer tendency to treat labour-power as any other commodity and secure it for the lowest price possible, it is justifiable to allow employees and dependent contractors to associate and bargain collectively in order to protect themselves and to advance their rights and interests. However, limiting these rights to workers legally classified as employees or dependent contractors excludes numerous workers, such as independent contractors (Bickerton and Warskett 2005; Cranford et al. 2005; Vosko 2010). Restricting the rights to association and collective bargaining to only employees and dependent contractors is becoming increasingly problematic in the current world of work. With the rise of neoliberalism and the push for more flexible labour markets, many workers are being classified, or, as in the case of bike messengers, misclassified, as self-employed. Workers who are classified or misclassified as self-employed are often in a position quite similar to employees and would clearly benefit from having the rights to associate and bargain collectively (Cranford et al. 2005; Carre and Heintz 2009).

Some scholars, such as Davidov (2004 & 2007), emphasize the systematic vulnerability of workers in their relationship with employers and suggest this vulnerability can also be used as a justification to allow workers to associate and bargain collectively. Systematic vulnerability, according to Davidov (2007), means

that, in the employment relationship employees are subordinated to and economically, socially, and psychologically dependent on their employer. The systematic vulnerability of certain individuals in particular relationships, from a normative standpoint, can be seen as problematic. While they will not eliminate it, unions can help to reduce the systematic vulnerability of workers in the labour market and employment relationships. Unions are also important and justifiable because they serve a redistributive function. This redistributive function allows workers to enjoy more of the fruits of their labour through higher wages and increased benefits than an employer would otherwise be offering. Because it alters the power between workers and employers, unions can also help to promote workplace democracy. Without a union and a binding collective agreement, workers are often subject to whatever decisions their employers make. Collective agreements generally contain provisions preventing employers from acting arbitrarily and provide workers with a collective voice in the workplace, which can also contribute to more democratic workplaces (Davidov 2007).

With the current climate of neoliberalism and the changing power relations between workers and employers, the rights to associate and bargain collectively are arguably more important than ever to protect and advance (Wells 2007). With its stress on competiveness, individualism, and entrepreneurship, neoliberalism enshrines values that are the antitheses of worker collective action and solidarity. In the neoliberal era, the political and economic elite are, once again, viewing collective action and bargaining by workers is as abhorrent; unions are something to be eliminated or at

least made marginal enough for labour markets to operate according to neoliberal ideals of flexibility. Because neoliberals tend to understand unions as a non-market institution, unions are seen as artificially driving up wages, restricting employers' prerogatives to manage their business, causing inefficiencies and rigidness in the labour market, destroying jobs, and stifling overall economic growth (Schenk 2004; Gindin and Stanford 2006).

With neoliberalism being the guiding ideology of the day, employers have gone on the offensive against organized labour, insisting on concessions from employees in organized workplaces, and doing everything in their power to thwart unionization attempts in unorganized ones (Tucker 2008). The state under the influence of neoliberalism is also becoming more hostile to collective action by workers. For example, there are strong state tendencies towards further restricting as opposed to expanding workers' rights to associate and bargain collectively. Unions were largely caught off guard by this neoliberal onslaught and many unions have been decimated as a result. While Canadian unions have fared better than their counterparts in the USA, Canadian unions have also experienced static or declining density rates and a diminution in their power, prestige, and influence (Clawson 2003; Lopez 2004; Kumar and Schenk 2006). Maintaining and improving collective agreements, along with organizing new workers, have become daunting tasks for unions (Panitch 2001; Crow and Albo 2005; Albo 2009; Butovsky and Smith 2007).

Fortunately, some unions are resisting the neoliberal onslaught and engaging in the project of union renewal. A number of Canadian unions, including CUPW, are actively trying to rebuild by organizing unorganized workers in precarious forms of employment. Union renewal is an attempt to breathe new life into and reinvigorate unions. Many scholars examining trade union renewal, such as Kumar and Schenk (2006) in Canada and Clawson (2003) in the USA, start from the premise that the dominant models of unionism—particularly industrial and business unionism—are outdated for an increasing number of workers. For unions to renew, they can no longer be passive or defensive actors and carry on with the "business as usual" approach. They must adapt to the changing political economy, which includes reflecting on old and developing novel strategies to respond to the new realities of work (Kumar and Schenk 2006). Before examining how historical and emerging forms of unionism may be regaining relevance for organizing unorganized workers in our current political economy, in the next section I address some of the limitations of the dominant models of unionism for organizing workers.

The Limitations of the Dominant Models of Unionism

The dominant models of unionism are, for the most part, proving ill-suited to deal with recent developments in labour markets and employment relationships. While industrial unionism was responsible for considerable gains made by workers in the past, its efficacy is on the decline. Industrial unionism arose in the 1930s and had its heyday in

the mid-twentieth century. It developed in response to the political economic climate of the time. Because it was in sync with trends in labour markets, industrial unionism was successful in protecting and advancing the rights and interests of a significant number of workers. However, from the 1970s onward, industrial unionism has become considerably less effective, as much concessionary bargaining over this time period indicates. Globalization, international competition, and the offshoring of much manufacturing work are cited as some of the reasons contributing to the weakening of the industrial model of unionism (Cobble 1994; Wells 2007; Mosco and McKercher 2008).

Industrial unionism in Canada was spurred by the development of Fordism and the Taylorist division of labour. In reaction to these changing forms of production, industrial unionism began to develop in both mass production and resource extraction industries (Kealey 1985). Industrial unionism is based on the idea that all workers within a particular industrial sector should be part of the same union. This goal, however, was never fully met in practice. It was often the case that there were multiple unions representing workers in a particular industrial sector. Industrial unions also tended to fight jurisdictional battles over who is going to represent which workers in particular workplaces. In practice, industrial unionism tended to focus on the organization of all workers at a particular firm or particular worksite. This, however, did not preclude pattern bargaining through which industrial unions were able to establish uniformity in terms of wages and working conditions in a particular sector.

Organizing workers by industry in an economy based on mass production and resource extraction where there is a more clear-cut distinction between sectors made sense. Having worksite-based locals was also more relevant when large employers dominated the economy, as a significant number of workers could come together to form a bargaining unit and have some clout (Holmes 2004; Adams 1995; Wells 1995 & 1995a). However, with the focus of industrial unionism on mass production and resource extraction, many economic sectors, especially the service sector, were left unorganized, resulting in, among other things, segmented labour markets. These segmented labour markets also tended to be gendered and racialized, with most workers in the peripheral labour markets being women workers, immigrant workers, and workers of colour (Warskett 1996). The industrial model of organizing is becoming increasingly more problematic in an economy that is being dominated by the production of services, where small and decentralized employers tend to dominate (Cobble 1994; Cranford et al. 2005; Milkman 2006).

As industrial unionism established a foothold in Canada, the relations between capital and labour came under formal state regulation through the *Industrial Relations and Disputes Investigation Act* (*IRDIA*) of 1948. Many of these regulations contained in the *IRDIA* included elements of previous labour legislation, but the Act also was significantly influenced by the development of Wagnerism in the United States. The *IRDIA* included: automatic dues deduction; certification and recognition of the union as a legal entity; the decentralization of the collective bargaining process; the

establishment of labour and industrial relations boards; mandatory grievance and arbitration procedures; the requirement of both parties to bargain in good faith; the prohibition of strikes and lockouts for the duration of a contract; the prohibition of slowdowns and other forms of direct action in the workplace; the requirement of the union to take responsibility for the actions of its members; sanctions against employers for unfair labour practices; and the solidifying of management rights to regulate the labour process, determine the location of production, and control what goods and services are produced (Kealey 1985; Adams 1995; Wells 1995 & 1995a; Bray and Rouillard 1996; Warskett, 1996).

The adoption of the Wagner model in Canada legitimated unions, provided them with financial stability, and gave them some clout to bargain with individual employers; however, at the same time, Wagnerism ended up restricting the activities of unions by ensnaring them in a web of legal obligations and restrictions. Among other consequences, Wagnerism resulted in bargaining unit fragmentation, the marginalization of membership, and a decrease in rank-and-file militancy (Adams 1995; Wells 1995 & 1995a). The aim of adopting the Wagner model in Canada was to encourage unionization and collective bargaining; however, it often ended up obstructing organizing efforts, especially outside of the manufacturing and resource extraction sectors. As it aimed to regulate the relationships between workers and employers in large industrial workplaces, the Wagner model did not fit well in sectors

where small and decentralized employers tend to dominate (Adams 1995; Warskett 1996; Haiven 2006).

In the 1970s, Fordism went into crisis in many advanced capitalist societies, and Fordism in Canada was not immune. Many mass production facilities in Canada were branch plants of American-based corporations. Likewise, in resource extraction, there was also a heavy reliance on American capital. In effect, the American and Canadian economies were tightly linked. When Fordism in the US went into crisis, Fordism in Canada quickly followed suit. Since industrial unionism is closely tied with Fordism, a crisis in Fordism resulted in a crisis in industrial unionism, as well as the model of worker collective representation fostered by Wagnerism (Kealey 1985; Haiven 2006). However, many North American trade unions appear to remain wedded to industrial unionism and the Wagner model of organizing, despite its increasing inefficacy for organizing and representing a growing number of workers (Adams 2008). Unions can often be lethargic and retain their organizational forms long after labour markets and employment relationships have changed, hampering their ability to both organize new workers and to represent their current membership effectively (Waterman 1999; Haiven 2006).

The industrial unions that are still actively organizing workers and maintaining relevance in today's economy have transformed into general unions, with members in various economic sectors and in a diversity of occupations. In Canada, these organizing unions often practice social unionism (Kumar and Schenk 2006). While the

industrial unions that have morphed into general unions are still organizing the unorganized, their organizing efforts tend to be focused on employees who work for large or at least medium-sized firms or public institutions and are in a standard employment relationship or a close variant thereof. Worksite locals and bargaining units continue to be the basis of organizing. For workers in the service sector dominated by small and decentralized employers, worksite-based locals and bargaining units may not be the most relevant or effective (Robinson 2002).

Under the influence of the Wagner model, many unions began to practice what is often deridingly referred to as business unionism—a practice which has proven to be quite detrimental to organized labour. Indeed, the presence of anti-union sentiments among a sizeable proportion of the working class can partially be attributed to this form of unionism (Clawson 2003; Lopez 2004). Business unions are structured bureaucracies that formally represent workers in complex economic relations with employers. Business unions see members primarily as wage earners and tend not to take other aspects of their identity into consideration. Business unionism's focus is on bread-and-butter issues often to the neglect of larger social, economic, and political issues. The priority is on servicing members rather than empowering the existing membership or organizing new members. Rank-and-file participation in decision-making is, for the most part, blocked, with union bureaucrats being more or less in charge (Clawson 2003; Kumar and Schenk 2006; Mishler 2006; Savage 2006).

Business unionism needs to be understood in the context of the post-World War II social accord among workers, employers, and the state. To appear legitimate and responsible in the eyes of employers and the state, unions needed to drop their revolutionary demands and purge the radicals in their midst. By doing this, employers and the state agreed to work with unions, resulting in improved wages and working conditions as well as enhanced job security for some workers. Business unionism is premised on participation in capitalist society, not on opposition to it (Kumar and Schenk 2006; Mosco and McKercher 2008). For a limited time, this social accord operated relatively successfully. While business unionism did benefit some workers—mainly white males in standard employment relationships in the manufacturing and resource extraction sectors—the efficacy of this unionism began to disintegrate in the 1970s, as employers came to skirt their obligations and violate the social accord in the wake of a sustained economic crisis. Employers no longer saw a need to work with unions no matter how reasonable or concessionary they were in bargaining, and employers used any means at their disposal to eliminate or at least weaken unions considerably. Many of these unions found themselves in a hostile and paralyzing environment with a decreased capacity to act offensively and resist (Adams 1995; Kumar and Schenk 2006; Mosco and McKercher 2008). Because this type of unionism is premised almost exclusively on what sort of economic benefits can be provided to the membership, the inability of unions operating within the business union model to improve, let alone maintain, wages and benefits is quite problematic. If unions

operating under this model cannot deliver what they have been able to in the past, and if they have nothing else substantial to offer workers in the present, business unionism becomes increasingly irrelevant for more and more workers, even for those in manufacturing and resource extraction and in standard employment relationships (Robinson 2002; Lopez 2004).

When it comes to organizing new members, business unions have accomplished little if anything over the last few decades. Milkman, for example, labels it as "do-nothing unionism" (2006: 130). If organizing occurs under this model, it is generally executed in a top-down manner. The rationale for organizing is often to increase the amount of dues for the union treasury. Organizing drives tend to adopt impersonal approaches, such as mail-outs and mass meetings, with little or no person-to-person contact. This does little to spark the interest of workers or make them feel as if it is their union, let alone trusting the union to represent their interests (Clawson 2003; Lopez 2004; Cranford et al. 2006). If organizing occurs in the service sector, business unions often fail to realize that reaching out to and organizing workers in the service sector requires different techniques and strategies. Business unions tend to have little imaginative capacity to undertake worker outreach or organizing campaigns differently than the established routines (Moody 1989; Mosco and McKercher 2008). If unions are going to attempt to organize workers in precarious employment relationships in sectors that also lack union traditions, the old routines will not be particularly effective (Milkman 2006).

Historical Forms of Unionism and their Relevance Today

Before industrial and business unionism rose into a position of dominance, craft, occupational, and metropolitan unionism were among the forms of unionism practiced by high-skilled and low-skilled workers of both genders in many economic sectors and occupations (Forsey 1985; Cobble 1991; Gordon 1991; Tufts 1998). These historical models of unionism may have more to offer as forms of collective representation for a growing number of workers in today's economy than industrial or business unions. As history shows, forms of unionism, if they are going to be effective, need to be adaptive to the changing dynamics of the labour market and the terms and conditions under which workers are hired and employed (Waterman 1991; Cobble 1994 & 2001). With the current structure of labour markets and the diversity of employment relationships, a variety of forms of unionism are needed to effectively represent workers. No single model of collective representation is adequate for all workers in the current political economy. A diversity of work and employment relationships calls for a diversity of organizational and representational forms (Cranford et al. 2005). As history also indicates, the labour movement also flourished when it accepted and promoted multiple and even competing forms of unionism (Cobble 2001).

Out of all these historical forms of unionism, craft unionism was one of the most widely practiced. Craft unionism developed in labour markets where small employers tended to be dominant, as opposed to industrial unionism, which developed in response to increasingly larger and centralized and bureaucratic workplaces. Craft

unionism tended to be effective in sectors where competition was cutthroat, but also more or less local (Wial 1993; Gordon 1999). As the same-day courier sector is dominated by small employers who are in intense competition with each other, craft unionism, or at least aspects of it, may be particularly relevant for organizing and representing messengers. Craft unionism also predominated in labour markets where employment tended to be more short-term and where workers often switched employers, which suggests that this model has some relevancy for workers in the same-day courier sector (Wial 1993).

Craft unionism has four defining elements. The first is that workers are organized based on occupation. Historically, craft workers tended to have a strong occupational identity and a sense of pride in and loyalty to the traditions of their craft. The model of craft unionism encouraged workers see the work that they did as socially valuable and worthwhile. The second feature of craft unionism is that employment rights, protections, and benefits are not tied to being employed by a particular employer, but to membership in an occupational community. Under this model, craft unions assisted members in finding employment within the occupation, but not necessarily by securing continued employment with one particular employer. The third feature of craft unionism is that the union controls the labour supply. This can be done by establishing multi-employer, city-wide agreements, operating hiring halls, or only permitting members to gain access to employment in closed-shops. Finally, craft unionism is also based on the union taking responsibility for skill development and enforcing

performance standards. Craft unions trained workers to gain the necessary skills to do the work and also disciplined workers for poor performance and insubordination (Wial 1993).

Historically, craft unionism was mainly practiced by skilled white-male workers (Cobble 2001). While craft pride allowed workers to feel that they were productive and useful members of society, with this form of unionism there was a tendency for the membership to be elitist and exclusionary. Indeed, during the time that craft unionism was dominant, some prominent union organizers charged that this form of unionism ended up dividing instead of uniting the working class (Debs 1910). There were also efforts made by some workers and unions to advocate for a new, more inclusive model of unionism (Peterson 1981). Workers who were members of craft unions often saw themselves as superior to and looked down upon workers with fewer skills. Craft workers pictured themselves at the top of the manual workforce. Craft unionists were often seen as and accused of being the aristocracy of labour, detached from the rest of the working class. Marginalized workers concentrated in low-status occupations were, for the most part, excluded from membership in craft unions (Cobble 1990; Meiksins and Smith 1993; Gordon 1999; Mosco and McKercher 2008). If workers are in low-status occupations, such as the bike messenger occupation, they may have trouble relating to some aspects of craft unionism. Service workers in today's labour market may also not be as attached to their occupation as traditional craft workers were (Lee 1979; Fine 2005).

Bike messengers, however, do have an attachment to their occupation. Whether their work is seen as high- or low-skilled, workers can gain an attachment to their occupation and identify with it. Pride in an occupation can also be developed through socialization. For messengers, their occupation often forms a major part of their identity. Occupational identity does matter for many workers. If workers share a strong occupational identity, it can be a force in building a stronger and more cohesive union and can also be used to mobilize workers during an organizing campaign. Arguably, one of the most important features of craft unionism is the geographical focus of securing multi-employer or sector-wide agreements. Historically, employers, particularly the more established ones, were often less hostile to craft unions, as the craft union model helped to discipline cutthroat firms in the sector, whose competitive position was often based on paying workers less. Despite some traits of craft unionism, such as the tendency towards elitism, there are many aspects of craft unionism that are applicable to organizing and representing workers, such as bike messengers. Unions could draw from the model of craft unionism to organize workers, especially in the bourgeoning, low-paid service sector that tends to be dominated by small, decentralized employers (Gordon 1999).

Occupational unionism was also practiced before the rise of industrial unionism. The four features of craft unionism are also central to occupational unionism. Occupational unionism stressed: building an occupational identity and taking pride in that identity; union control over the labour supply; having employment rights,

protections, and benefits as a member of the occupation rather than as an employee of a particular firm; and union control over training and performance standards (Cobble 1991). Occupational unionism can be thought of as a loose form of craft unionism (Lipsig-Mumme 1988). Membership tended to be more broadly defined, and an occupation was also understood in broader terms than it was in craft unionism. Like craft unionism, occupational unions also organized on a geographic basis, such as a city or a region, and attempted to establish multi-employer collective agreements. Importantly, occupational unionism, unlike craft unionism, was not restricted to workers who were viewed and saw themselves as highly skilled; however, occupational unions did take seriously the skill development of the membership, as well as having these skills recognized and rewarded by employers (Lipsig-Mumme 1988; Cobble 1991).

Historically, occupational unionism was practiced by workers such as waitresses, janitors, porters, clerical workers, truck drivers, delivery drivers, taxicab drivers, and other service sector workers. Workers who deliver things for a living have organized under the occupational union model in the past and could also do so in the future. Many of these occupations were seen as semi-, low-, or unskilled. With these occupations, there was often a large supply of potential workers in the labour market seeking employment who were willing to do the work for lower pay. This is why control over the labour supply needed to be in the hands of the union. Traditionally, occupational unions secured control over the labour supply through union-run hiring

halls, as well as by gaining the allegiance of members, who would abide by union rules and only work for employers who also abided by union rules (Cobble 1994 & 2001; Moukalif 2009). In the same day courier sector, there are enough available workers willing to become messengers. Courier firms also tend to over-hire, which makes some sort of union control over the labour supply critical in this sector. While hiring halls may or may not be the most relevant way to control the labour supply today, unions can develop other strategies to exert some control over the labour supply and limit the number of workers entering the occupation, such as having stipulations in collective agreements on the maximum number of workers who can work for a particular employer (Smith 2006).

Occupational unionism may also be particularly relevant to organizing marginalized workers, whose work is often looked down upon or devalued. As discussed in Chapter Six, messenger work is often seen as "dirty work" and messengers are seen as "dirty workers." Through occupational unionism, other marginalized workers have challenged the stigma of their occupations. Establishing dignity and respect for workers and the work that they do can be incorporated into the organizing campaign and collective agreements. Gaining dignity at work is often among the reasons why workers seek unionization in the first place. Gaining dignity and respect at work can be empowering for workers, giving them more self-confidence, which in turn can help to build a stronger union (Murray 2004; Moukalif 2009). Similar to craft unionism—but perhaps even more so because it is not

associated with elitism—occupational unionism has significant potential for organizing and advancing the rights and interests of low-paid workers in the bourgeoning service sector. Occupational unionism thrived in the early to mid-twentieth century because it was structured to address the needs and interests of both workers and employers outside of mass-production and resource extraction workplaces. Once again, occupational unionism may be regaining relevance in the current political economy (Cobble 1994 & 2001).

Although not as widespread as craft and occupational unionism, metropolitan unionism may also provide some lessons for organizing workers today. Metropolitan unionism was practiced by both high- and low-skilled workers before the rise of industrial unionism and the development of national and international markets for many goods and services. It is a type of unionism that may be particularly well-suited to organizing workers in sectors of the economy where competition is purely local (Gordon 1999). The market for same-day courier services does not exist beyond the local level. While there are courier firms, such as UPS, Purolator, and FedEx, which operate in local, national, and global markets, the same-day courier firms that employ bike messengers do not operate in national or global markets (Courier Research Project 2005).

As the name suggests, metropolitan unionism arose and was practiced in large urban centres. Metropolitan unionism is a type of collective bargaining that organizes workers based on geographical area and occupation, rather than by workplace or

industry. The labour markets organized by metropolitan unions often mirrored the product markets. Similar to craft and occupational unions, metropolitan unions attempted to establish city-wide multi-employer agreements, with the intent of taking wages out of competition within a metropolitan area. Through these city-wide, multi-employer agreements, metropolitan unionism could assist in regulating competition and disciplining marginal firms so that they could not undercut each other. As undercutting of delivery rates is a common practice in the same-day courier sector in Toronto, unionization based on the metropolitan model could help to stabilize the market value of the services that same-day courier firms provide (Gordon 1999).

These three historical forms of unionism, or at least aspects thereof, hold much relevance in organizing workers such as messengers. As labour market conditions and employment relationships change, these historical models of unionism may once again have significant potential for organizing workers. With the rise of the service sector, which is dominated by small, decentralized employers and where competition is often more or less local, the models of craft, occupational, and metropolitan unionism may be better equipped to organize and represent workers than the models of industrial or business unionism. Unions must adapt to changes in the political economy. In thinking about how to adapt unionism, past forms need to be examined; however, emerging forms of unionism also need to be explored.

Emerging Forms of Unionism

In addition to the historical forms of unionism, there are also emerging forms of unionism that may have particular relevance in organizing bike messengers. The two that hold the most promise are social movement and community unionism. These emerging forms of unionism are not completely novel and should be seen in terms of both continuity and change (Cranford et al. 2006; Kumar and Schenk 2006; Mosco and McKercher 2008). Social movement unionism and community unionism are terms that are often used interchangeably and refer to a variety of strategies and tactics that trade unions are currently experimenting with in order to organize workers (Ross 2008). However, some scholars insist that a distinction between social movement and community unionism should be made. Fine (2005), for example, contends that a social movement implies a transformative mass movement operating at least at the national level—something at the scale of the US civil rights movement in the 1960s. The term social movement, she suggests, should be used more sparingly; much of what is occurring and is labeled as social movement unionism would better thought of as community unionism. While some of the differences are important, this section focuses more so on their similarities, and how elements of these two forms of unionism may be applicable to organizing messengers.

Social movement unions can be defined as community-based unions that often work with other worker organizations and community groups. Actively working with other worker organizations and community groups is not a necessary feature, but

having some connection to the community generally is. In terms of their political orientations, social movement unions can range from reformist to revolutionary. Social movement unions differentiate themselves from the hierarchical and bureaucratic structure of business unions, which have been unresponsive to workers' needs and interests. The social movement model is premised on an active and informed membership. One of the central markers of social movement unionism is its grassroots orientation. It is a worker- or member-focused form of unionism. The participatory style is used to help empower workers and promote solidarity among members. Proponents of social movement unionism see the participatory style as necessary for the development of the institutional structures that support continued activism and organizing (Robinson 2002; Sharpe 2002; Kumar and Schenk 2006; Mosco and McKercher 2008).

Social movement unionism has a focus on both internal organizing—mobilizing the existing membership—and external organizing—organizing unorganized workers. Social movement unions tend to have a strong focus on economic and social justice, features which may be particularly attractive to and useful for precariously employed workers. For these workers, their issues often extend beyond the workplace. Worker organizing and outreach are based on the notion that unions need to be more than just economic actors concerned only with workplace issues. To build working class power and to attract new members, unions need to take on broader social, political, and economic issues, which impact workers in all facets of

their lives; unions have to resonate with workers if they want to attract new members (Johnson 2002; Mosco and McKercher 2008; Webster et al. 2008). Similar to the historical models discussed in the previous section, social movement unions tend to have a strong geographic focus and aim to establish multi-employer collective agreements with the goal of taking wages out of competition (Herod 2003).

With a geographical focus and the goal of establishing multi-employer collective agreements, social movement unionism has particular relevance in organizing workers, such as messengers. Small employers tend to dominate Toronto's same-day courier sector and the sector is also highly competitive; if one firm is unionized and has to pay workers more than other firms, it would become uncompetitive and have a good chance of going out of business. It is only through organizing all workers in a particular sector and having multi-employer collective agreements that firms are able to remain competitive with each other in terms of labour costs (Savage 1989). This does not mean that the terms and conditions of the collective bargaining agreements must be exactly the same for all employers and workers in a given sector. Multi-employer collective agreements can contain sub-agreements to take account of specific circumstances of particular workers and employers (Herzenberg et al. 2000).

Comparable to social movement unionism, community unionism is rooted in the community and focuses on grassroots organizing. This form of unionism also encourages self-organizing among members. Membership empowerment and internal leadership development, through participatory education and training, are central to the

self-organizing and grassroots principles of community unionism. Members are encouraged to conceptualize and execute organizing strategies, as well as critically reflect on how these strategies could be improved in the future. Community unionism can be thought of as a labour-oriented, community-centred movement. It is a form of community organizing that maintains a core focus on employment issues and is seen as a particularly advantageous form of unionism for precariously employed workers. Community unions recognize that the issues that members face in their working lives intertwine with the issues that that they face in other facets of their lives. Organizing campaigns often incorporate issues that extend beyond, but are related to workplace concerns, such as access to childcare, healthcare, education, and social services (Cranford et al. 2006).

Worker identity is another important aspect of community unionism. Identity can be tied to a specific occupation, though it can entail a more general notion of identity, such as being a low-paid worker in a particular city. Other times, identity can be based on the ethnicity or immigration status of workers. Community unions focus on how identities may overlap and the implication of these intersecting identities for organizing workers. A looser notion of identity than what informs craft or occupational unionism may be more appropriate for low-paid workers, many of whom may not have a strong attachment to their occupation or job (Fine 2005; Holgate 2005; Savage 2006). Community unionism also has a strong geographic focus and can be considered a place-based form of unionism. Advocates of community unionism maintain that to

take wages out of competition, unions need to organize geographically, such as organizing a sector, a labour market, or an occupation in a city or region. In economic sectors, which are dominated by small, decentralized, and highly competitive firms, bargaining needs to go beyond a single employer to effectively improve the terms and conditions of employment and to take labour costs out of competition (Fine 2005 & 2006; Cranford et al. 2006; Savage 2006). To change the labour market dynamics in a particular economic sector, such as the same-day courier sector in Toronto, most or at least a significant number of firms need to be organized.

Community unions tend to undertake a considerable amount of outreach, while also providing services to non-unionized workers through worker centres. Worker centres are community-based institutions, which provide services to, advocate for, and organize low-paid and non-unionized workers. Services include helping workers to recover unpaid wages, to challenge unfair dismissals, and to receive proper compensation when injured. In terms of advocacy, worker centres research and expose the terms and conditions of employment for low-wage workers and lobby governments to enforce, change, or introduce new laws and regulations to protect these workers and improve the terms and conditions of their employment. Organizing through worker centres is also about empowering workers so that they can become advocates on their own behalf and challenge unfair employer practices. With the community unionism approach, organizing through worker centres can also be a precursor to actual union organizing (Cranford et al. 2006; Fine 2006).

To facilitate the unionization of workers in the service sector, such as messengers, it is necessary to draw on some of the best features of craft, occupational, metropolitan, social movement, and community unionism. I highlight the elements that may be the most applicable to organizing messengers in the following section.

Forms of Unionism and Messenger Organizing

Arguably the most important feature of craft, occupational, metropolitan, social movement, and community unionism to draw from for organizing workers, such as messengers, is the goal of establishing multi-employer or sectoral bargaining units and collective agreements. In highly competitive and low-wage sectors, there is a need to regulate labour across multiple employers. To take wages out of competition in sectors where competition is purely local, it is vital that unions organize the labour markets to mirror the product markets (Wial 1993; Cobble 1994; Herod 2003; Cranford et al. 2005; Tufts 2007). Organizing employer-by-employer is not only time consuming, but can also end up being counterproductive, as it can often spur considerable employer resistance. Organized firms will be placed in an uncompetitive position if they have to pay union wages and benefits, while unorganized firms in the same sector do not. If firms feel as if they are the only ones being targeted by an organizing campaign, they are likely to put up a considerable fight. If only one or a few employers are organized, these firms could also be put out of business, resulting in workers losing both their unionized status as well as their jobs. To transform the terms and conditions of

employment for messengers, unions need to aim at organizing all the employers in a given geographical area. By organizing all workers and negotiating with all firms, firms will continue to be competitive, at least in terms of labour costs. Organizing across multiple employers can work to limit the cutthroat competition that plagues many sectors, such as the same-day courier sector, and this could be beneficial for both employers and workers (Savage 1989; Wial 1993; Cobble 1994; duRivage et al. 1998). Again, organizing all employers in a sector does not mean that all employers and workers have a uniform contract. Multi-employer contracts can contain sub-agreements to meet the needs of specific employers and workers within a sector (Herzenberg et al. 2000).

Unions need to take workers' identity into account when organizing. Both craft and occupational unionism emphasize the occupational identity of their members (Cobble 1991; Wial 1993). Community and social movement unions also stress the identity of workers, but not necessarily their occupational identity. Identity can be based on being a low-wage worker or a member of an ethnic group (Fine 2005; Cranford et al. 2006). For messengers, however, occupational identity tends to be quite important. The ways in which craft and occupational unionism promote the notion of occupational identity need to be incorporated into organizing campaigns where this identity is important for workers. Messengers generally only have a marginal attachment to a particular employer, but tend to have quite a strong attachment to the occupation. In such a situation, it may be more productive to build cohesion and

solidarity based on an occupational identity rather than building cohesion and solidarity in opposition to a particular employer. Building solidarity and structuring a campaign around animosity against one particular employer or the promise of job security with a single employer may not be particularly effective for workers, such as messengers, who often tend to switch employers (Cobble 1991; Cobble and Vosko 2000; Smith 2006).

The occupation of bike messenger also tends to be a stigmatized occupation: it is constructed as "dirty work" and messengers are constructed as "dirty workers." Some workers in the same-day courier sector internalize this stigma and some are ashamed of what they do. To contest the notion that work in the same-day courier sector is "dirty work" and to deal with the shame and occupational stigma, craft and occupational unionism can provide some useful strategies. Both of these forms of unionism promote the idea that workers should take pride in what they do, seeing the work they do as valuable and worthwhile. Messenger work could be promoted as a critical service to businesses and other institutions and organizations, which depend on the quick movement of information and other goods in downtown Toronto. With effort, messenger work could be redefined as an occupation requiring skilled workers. Establishing dignity and respect for workers and the work they do can be incorporated into the organizing effort and then also codified in collective agreements. The shame and stigma that workers may feel needs to be overcome for successful organizing. The models of craft and occupational unionism can help in this regard. In addition to

making workers feel proud of what they do, redefining the messenger occupation as a respectable one could also help to deal with the discriminatory harassment and treatment messengers often face on the job.

Organizing campaigns should also emulate the ways in which social movement and community unions conduct worker outreach to gain worker support for the union. This is especially important when organizing workers who are marginalized in the labour market, such as messengers, and who may also be unfamiliar with what unions are and what unions do. One-on-one organizing and taking the time to talk with and educate workers about what unions are and the benefits of unionization are critical components of an outreach campaign. While it is often time consuming, one-on-one organizing is necessary to win over hesitant workers. Blitz style campaigning—where unions attempt to sign up as many workers as quickly as possible and where outreach is based on handing out pamphlets or having mass meetings—will have limited efficacy in sectors where workers have little or no experience with unions (Cranford et al. 2006; Fine 2006).

In addition to taking the time to educate workers on the role of unions, organizing campaigns must develop strategies that empower workers and build structures that promote worker participation in the campaign and the union. Again, this is especially important when organizing marginalized workers who may be unfamiliar with the ways in which unions operate and the ways in which they, as workers, can become involved. Community unionism stresses having multiple entry points in order to

encourage member involvement in the union. If they are going to be empowered, workers need to feel as if they constitute the union. If workers are not running the campaign, the union can easily be seen as an outside, third-party organization coming in to change things. If workers are somehow successfully organized with little involvement from the workers themselves, the membership will likely be passive and the union will likely be weak. Empowering workers is critical to build the self-confidence necessary to challenge employers, not just during the organizing campaign but also in the ongoing employment relationship (Cranford et al. 2006). Empowering members can also encourage them to conduct outreach themselves, which can result in bringing more workers into the union. Worker-to-worker outreach is often more effective than having paid union staff doing the outreach. Empowering workers and building their self-confidence can also help deal with the stigmatization associated with certain occupations and further encourage workers to take pride in what they do. The practices of educating and empowering workers stressed by both community and social movement unionism need to be incorporated into campaigns where workers are marginalized in the labour market, lack the self-confidence to stand up to employers, and have little or no experience with unions or the labour movement.

Another outreach activity associated with the community unionism approach, which may be particularly useful for organizing workers who are subject to numerous employer abuses, such as messengers, is to provide employment-related services through worker centres (Cranford et al. 2006; Fine 2006). It is critical to offer workers

services during the organizing campaign, as it displays the union's commitment to the workers it is attempting to unionize. By helping workers to deal with employment issues before they are in certified bargaining units with collective agreements, unions can demonstrate that they have clout with employers. Unions can also demonstrate then that they can act in the interests of and seek justice for workers. If unions can show that the employer can be challenged, they can increase worker support for the union and the organizing campaign. In situations where workers may be suspicious of unions, offering services through worker centres is also a way that trust can be built between the union and workers. In sectors where workers experience significant employer abuse and exploitation, establishing a worker centre as part of the outreach and organizing strategies may be quite useful.

Conclusion

Access to collective bargaining is essential if precariously employed workers are going to improve the terms and conditions of their employment. With the rise of precarious forms of employment and disguised employment relationships, unions remain as important as ever for workers (Wells 2007). However, for numerous reasons, organizing workers is becoming increasingly more difficult. The dominant models of unionism are becoming increasingly irrelevant for organizing workers in today's low-paid service sector. When looking at what forms of unionism may be applicable to workers in today's economy, history can offer some important lessons. With the rise of

the service sector, which is dominated by small employers and where competition is often only local, the models of craft, occupational, and metropolitan unionism, with their emphasis on sectoral or multi-employer bargaining, may have more relevance than industrial unionism (Wial 1993; Gordon 1999; Cobble 2001). This does not mean that industrial unionism has no lessons to offer for the present. The pattern bargaining practiced by some industrial unions is still an important strategy to maintain uniform wages and working conditions in particular sectors (Holmes 2004). Craft unionism also has its limitations, such as its focus on skilled workers and tendency towards elitism and conservativeness. Like industrial unionism, craft unionism was also susceptible to business union practices (Taplin 1990). Nonetheless, despite limitations, craft unionism, especially with the focus on worker identity and multi-employer bargaining, has relevance for organizing workers such as messengers.

Emerging forms of unionism are also important to consider, particularly social movement and community unionism. Both of these forms of unionism stress extensive outreach, which is important in sectors with little or no union history. Additionally, social movement and community unionism aim to empower the membership and stress multiple ways for members to become involved. This too is important when organizing workers who may be unfamiliar with unions (Cranford et al. 2006; Mosco and McKercher 2008). To successfully organize messengers, incorporating aspects of craft unionism, occupational unionism, metropolitan unionism, social movement unionism, and community unionism in to the campaign will likely be necessary. Finally, there are

organizing models outside of the traditional collective bargaining regime that may have potential to improve the terms and conditions of employment for workers, such as messengers. Living-wage ordinances could be applied to courier firms that contract with the city and other public institutions, such as hospitals and universities (Luce 2004). Worker centres also have potential to improve the terms and conditions of employment for workers, such as messengers, through advocacy and pressuring and shaming employers to respect workers' rights (Cranford et al. 2006). Having examined the forms of unionism that may be applicable to organizing workers, such as messengers, in today's political economy, the next chapter presents an analysis of the CUPW courier organizing campaign.

Chapter Eight:
The CUPW Courier Organizing Campaign

Introduction

Unionizing workers is often a difficult and time-consuming undertaking. The expansion of certain forms of employment, such as part-time work, contract work, temporary employment, and self-employment, both pseudo and real, along with the restructuring of business operations and the state's changing orientation towards employment matters have created numerous obstacles for trade unions attempting to organize and represent workers (Cranford et al. 2005; Kumar and Schenk 2006). However, given messengers' disguised employment, the structure of the same-day courier sector consisting of small, decentralized employers, the anti-unionism of many employers in this sector, the cutthroat competiveness among firms, the mobile nature of messengers' work, and their marginalized status in the labour market, organizing becomes even more daunting. Unions are under attack from many quarters; however, they are also going on the offensive, fighting back, and attempting to organize. Organizing precariously employed workers, especially in the bourgeoning service sector, is critical to the project of union renewal in Canada and elsewhere (Clawson 2003; Kumar and Schenk 2006). Efforts by unions to attempt to organize workers in economic sectors without any union history, such as the same-day courier sector, should be commended regardless of the outcome.

Workers in disguised employment relationships, such as messengers, are among the workers who need unionization the most. However, messengers face many difficulties that other groups of workers do not. The CUPW organizing campaign has, unfortunately, only resulted in limited success. While at one point there were three certified bargaining units at three different same-day courier firms, only one bargaining unit currently remains certified and the first contract negotiations are proceeding slowly. CUPW invested significant resources in this campaign. It was also innovative in terms of conducting outreach with workers. The effort, dedication, and innovative tactics, however, did not pay off. Despite the campaign only being partially successful, lessons can be learned. The limited success of the CUPW courier organizing campaign suggests that changes to the collective bargaining regime are necessary to mandate or, at least, promote multi-employer or sectoral bargaining. In sectors where competition is more or less local, there is a need to regulate labour across multiple employers. Without changes to the collective bargaining regime, economic sectors like the same-day courier sector will remain difficult to organize. Unions can develop innovative strategies and tactics to organize workers; nevertheless, when faced with structural impediments to organizing workers, such as messengers, these strategies and tactics are often not enough.

This chapter examines the CUPW courier organizing campaign in Toronto. While this dissertation has focused on a subpopulation of workers in the same-day courier sector—bike messengers—this chapter addresses the attempt by CUPW to organize

car couriers and walking messengers in addition to bike messengers. An analysis of the larger campaign is necessary, because it reflects CUPW's original intent to organize all workers in the same-day courier sector in Toronto, not just bike messengers. An analysis of the larger campaign is also useful as it shows how different groups of workers within the same sector can face different impediments to organizing.

In the first section of this chapter, I discuss the origins of the CUPW courier organizing campaign and why CUPW decided to launch it. In the next section, I examine why workers, particularly bike messengers, in the same-day courier sector support the organizing campaign and see organizing as the means to gain employee status and to improve the terms and conditions of their employment. In the following section, I look at the organizing process and how outreach was conducted. I then examine why some messengers remained resistant or reluctant to support the campaign in spite of being quite dissatisfied with their employment. Next, I look at messenger involvement in the campaign and why, apart from a few dedicated messengers, it tended to be limited. I then move on to examine some of the legal obstacles that CUPW faced in organizing messengers, such as contesting their employment status. In this section, I also examine the jurisdictional battle—federal versus provincial—that CUPW faced. CUPW ended up losing its certifications under the federal collective bargaining regime, as same-day courier firms were deemed to be provincial undertakings. In the next section, I examine how CUPW re-organized messengers at one courier firm under the provincial collective bargaining regime. I also look at some

of the tactics that CUPW used to pressure this firm to come to the negotiating table. Finally, this section discusses the current state of the campaign and what its prospects might be for the future. I end this chapter with a discussion on what lessons could be learned from other campaigns, which have successfully organized precariously employed workers.

The Origins and Goals of the CUPW Courier Organizing Campaign

CUPW has been organizing workers in the same-day courier sector since the late 1990s. It has successfully organized couriers and messengers in Montreal, Winnipeg, Saskatoon, Ottawa, and Red Deer. With the Greater Toronto Area (GTA) having the largest market for same-day courier services, as well as the most same-day courier firms in the country, CUPW saw the GTA as a critical area to expand organizing efforts (CUPW n.d., interview with John). In late 2008, CUPW undertook a research project in collaboration with university-based researchers to examine the working conditions of bike messengers, walking messengers, and car couriers in the GTA. Another aim of this research project was to gauge how favourable these workers were to organizing with CUPW (Pupo and Noack 2010; interview with Jonah). Background research is vital to develop a concrete strategy for organizing workers. Different economic sectors require different strategies, and conducting research beforehand assists in developing these strategies. Conducting research before a campaign begins is even more important in economic sectors with little or no history of unionization.

Successful organizing requires knowledge of: the structure of the sector; the power relations in the sector; how employers operate, including compliance or non-compliance with applicable legislation; what workers' grievances are; and, most importantly, how favourable workers are to unionization. Conducting research can reveal how employer vulnerabilities can be exploited and where pressure points can be applied (Crump 1991; Tufts 1998; Clawson 2003; Milkman 2006; Juravich 2007).

The research team consisted of: two faculty members, Dr. Norene Pupo from York University and Dr. Andrea Noack from Ryerson University; graduate students from York University, including myself; and Canada Post workers from various CUPW locals throughout the GTA. Jonah coordinated the research project and, subsequently, became the first campaign coordinator. Over a three month period, beginning in November 2008, the researchers canvassed the streets of Toronto, from the downtown core out to the suburban office buildings, in search of bike messengers, walking messengers, and car couriers to talk with them about their working conditions and how they felt about unionizing. The results of the CUPW research project indicated the terms and conditions of employment for messengers were quite precarious, certainly substandard compared to the working conditions at Canada Post. The research also found that workers in the same-day courier sector had numerous grievances with their employment. Additionally, the research called into question the legitimacy of messengers' employment status as self-employed (Pupo and Noack 2010). To be sure, CUPW sees couriers and messengers as disguised employees

(CUPW 2010; interview with Jonah). While the research confirmed that employment in the same-day courier sector is quite precarious and that messengers and couriers would like their working conditions improved, it also questioned whether there was enough worker support for a successful unionization campaign (Pupo and Noack 2010). Nonetheless, CUPW believed that workers in the same-day courier sector, particularly bike messengers, were receptive enough to the idea of unionizing to justify launching an organizing drive (CUPW n.d.; interview with Jonah).

The organizing drive commenced in the fall of 2009. At the outset, the goal of the organizing campaign, as Jonah puts it, was:

> To successfully sign up a majority of couriers working in the GTA into the union, and then build on that momentum to try and expand the union's organizing successes to other cities towards the goal of having the majority of couriers across the country be represented by CUPW: unionized; working under collective agreements; where they are considered employees; [and] where they have basic protections.

Similar to the organizing strategies associated with craft and occupational unionism, CUPW's initial aim was to organize all workers in the same-day courier sector in the GTA. If all same-day courier firms are unionized, no individual company would have to worry that it would be at a competitive disadvantage. In a highly competitive sector, dominated by small employers, where labour costs are the main costs on which to compete, organizing the entire sector is critical. In the same-day courier sector, multi-employer bargaining is one of the few ways that unions can take labour costs out of competition (Wial 1993; Gordon 1999).

An issue with this model of organizing, however, is that it is premised on an all-or-nothing logic. Non-union firms will remain a threat to the competitive position of unionized firms (Wial 1993; Gordon 1999; Clawson 2003). Messengers also realize this as an obstacle in the campaign. Harry, for example, comments:

> If you unionize one company they might become uncompetitive with the next company...I am not sure how many companies there are that use bike couriers as a means of delivering their services, but they certainly know what the other companies are doing and can seize upon that. If your overnights suddenly go up fifty percent because the bike courier is not earning $1 on the package but $2, [another same-day courier firm] can undercut them and take all their packages.

If firms feel as if they are targeted for organizing while their competitors are not, they are likely to put up considerable resistance and do whatever they can to thwart the organizing attempt (Cobble 1994). As discussed below, the same-day courier firms which were organized did put up considerable resistance. However, with the current structure of the collective bargaining regime and the way in which labour boards certify bargaining units, unions are forced to organize workers workplace by workplace, unless employers voluntarily agree to a multi-employer or sectoral-wide collective agreement (Browny and Fudge 1993; Block 2006). With the anti-unionism that pervades this sector, convincing all employers to agree to sectoral bargaining was not likely going to happen. Thus, CUPW had little choice but to organize employer-by-employer.

Shortly after the campaign started, Mark was hired as the second campaign coordinator. Jonah and Mark worked on the campaign together for about a year until

Jonah left for other employment. Another CUPW staff member, John, is also working on the campaign, but his role is limited as he primarily assists with bargaining. John has considerable experience in bargaining with same-day courier firms. He was involved in the CUPW courier organizing campaign in Winnipeg in the late 1990s—CUPW's first successful organizing campaign in the same-day courier sector. John was also involved in many of the organizing campaigns in other Canadian cities over the last decade or so, again assisting primarily with bargaining. For the most part, however, since Jonah left, Mark has been running the courier organizing campaign solo, which at times was a somewhat overwhelming experience. To organize such a large group of workers scattered over the GTA, more staff would have been a beneficial investment.

CUPW began the organizing campaign in the same-day courier sector for a few reasons. Some were strategic and part of its preservation and expansion as a union, while others were in the spirit of solidarity with a group of workers who are marginalized in the labour market (interview with John). Within the labour movement, CUPW is recognized as a progressive and militant union with a strong commitment to social and economic justice (Tufts 1998; White 1990; Bickerton and Stearns 2006). CUPW sees workers in the same-day courier sector as doing similar work to that which CUPW members perform at Canada Post, and it considers workers in the courier sector as the not-so-distant-cousins of Canada Post mail carriers. CUPW also

sees the courier sector as part of the larger postal sector and, thus, as part of its jurisdiction to organize (CUPW n.d.; interview with John; interview with Jonah).

CUPW members working directly for Canada Post have decent wages and benefits and relatively safe working conditions, something for which CUPW has fought long and hard (Davidson and Deverell 1974; White 1990). The working conditions of messengers in the same-day courier sector are dismal compared to what CUPW members at Canada Post enjoy. The working conditions for workers in the same-day courier sector are also substandard to working conditions in the overnight and second-day courier sector. These workers, employed by firms such as UPS, FedEx, and Purolator, have decent wages and benefits and many are also unionized (Courier Research Project 2005; Pupo and Noack 2010). CUPW is adamant that anyone working in the postal sector—writ large—should be treated with dignity and respect and be able to earn a decent income, which can lift workers and their dependents out of poverty. The CUPW membership also mandated organizing workers in the same-day local courier sector, as part of its commitment to focus more energy and resources on external organizing. As John puts it: "the whole objective is bringing some justice to this industry…It is not just for our own best interest to have everyone that touches the mail organized. It is also the obligation we put on ourselves at our convention to help organize the unorganized." One of the goals of the courier organizing campaign was to make messenger work a well-paying and sought-after job,

rather than work that is looked down on as "dirty work" in which only those with few other options for employment engage (CUPW n.d. & 2010).

Under government pressure to reduce operating costs and increase profitability, as well as the lingering issue of postal privatization, Canada Post is also shedding workers and contracting out various aspects of its operations (Osborne and Pike 1988; Lee 1990; Janzen et al. 2001; Bue and Bickerton 2005). Given its history over the last few decades, it is unlikely that Canada Post is going to expand its in-house operations and hire on more workers as employees. With Canada Post's corporate strategy towards outsourcing and privatization, much of CUPW's future growth lies in organizing workers outside of Canada Post. If the work cannot be done by CUPW members hired as employees of Canada Post, CUPW can at least attempt to ensure that the work is done by CUPW members. Having a strong presence in the private courier sector could also strengthen CUPW's ability to bargain with its members' main employer, Canada Post. To be sure, part of the rationale to organize private sector courier firms is to maintain decent working conditions at Canada Post, which CUPW sees as threatened by the lower standards in the private courier sector (CUPW n.d. & 2012; interview with John; interview with Mark).

CUPW had ambitious goals when it launched this campaign. It was an attempt to organize an entire sector in Canada's largest city. Its reasons for launching the campaign were strategic—the preservation and expansion of the union—as well as solidaristic—reaching out to a group of precariously employed and marginalized

workers. Having examined the origins and goals of this campaign, I now move on to look at the reasons why workers, particularly bike messengers, support organizing and why they see unionization as the means to gain employee status as well as to improve the terms and conditions of their employment.

Why Unionize

The reasons that workers in the same-day courier sector want to organize are similar to the reasons why other workers want to unionize. Like other workers, they want to have a voice in their workplace, to be treated fairly and with respect, to improve the terms and conditions of their employment, and fair remuneration for the work they do (Clawson 2003). More specifically, messengers want: to be able to earn a guaranteed minimum income and have extended benefits; to be treated as employees or, at least, dependent contractors; to ensure that courier firms abide by employment standards and other applicable legislation; to have respect and dignity on the job; to have contractual language protecting their human rights; to have a voice in their workplace; to have a say in the pricing of delivery rates; to have a fair distribution of work; to have reasonable workloads so that they can work in safe manner; to have fair and transparent disciplinary procedures; to have proper access to compensation if they are injured on the job; to have security in their employment; and to not be subject to the arbitrary decisions made by management (interview with Allan; interview with Bill;

interview with Chris; interview with Harry; interview with Nicole; interview with Maria; interview with Mark).

Without a union presence in a given sector, employer abuse runs quite rampant. In the same-day courier sector, workers' rights are not respected. What many messengers seek to gain through unionization are the basic protections, benefits, and rights that employees have. As Bill puts it:

> The most basic thing is ensuring that certain employment standards are upheld because it is clear that no one in government cares that there are people who aren't getting paid minimum wage. There are companies that are breaking laws and no one is enforcing that. Unionization seems like the logical way to make that happen. We have rights as workers that are being trampled upon.

As Bill's comments suggest, the effective enforcement of employment standards is more likely in sectors where there is a union presence (Thomas 2009). Without a union presence, employers can violate the rights of workers more or less with impunity. One of the main complaints messengers have about their work is that they often earn less than minimum wage. Being able to earn a living wage, or at least the minimum wage, is one of the main reasons why many messengers see unionizing as necessary. Paul comments: "being a bike messenger is a good job, but it has to be unionized. People are not making a living off of it." Messengers are, accordingly, part of the working poor. While many messengers do genuinely enjoy much of the content of their work, they also want to be able to earn a decent income. Enjoying what one does and making a decent living should not be mutually exclusive.

Fortunately for CUPW, there were quite a few messengers who were already favourable to unionization. Ian, for example, comments: "I am pro-union to begin with. I think that organizing could better the lot for us, giving us the ability to bargain with the employers and get a little bit better of a shake." With the precarious working conditions in the same-day courier sector, it did not take much to persuade some workers to support the organizing campaign. Mark recounts a response from one individual who simply stated: "where have you been?" Other messengers, who were also quite supportive of the campaign, stressed the precariousness of employment and rampant employer abuses as the main reasons for unionizing. Steve notes:

> There is massive exploitation going on inside the courier sector. These people don't recognize their value. They just slog and take this shit. They don't value themselves highly enough. I wish that there could be some collective wakeup where everyone goes: 'whoa, we're like fucking slaves, man.' This is sort of my punk-ghetto explanation of calling for some proletarian uprising.

While it is evident to many messengers that employment in the same-day courier sector is precarious, Steve recognizes that not everyone has developed the same critical stance on the exploitative working conditions in this sector. As his comments suggest, outreach is necessary to raise some messengers' awareness of the substandard working conditions, as well as convince them that they deserve and can also attain improved terms and conditions of their employment.

Some messengers support the organizing campaign based on a social justice perspective. The occupational community and the solidarity that exist among messengers in Toronto reinforce this social justice perspective. Nicole remarks:

> These are my friends, my coworkers, and my chosen family and if we can unionize, unite, and take care of each other…I can at least say: 'yes, I have paid my union dues. I am part of this union that works for me and my friends and the people that I work with.' I just would really rather say: 'I believe in these people and I would hope that they do well' than to be like: 'I am not involved with this at all. I just don't care.' Everybody deserves a chance to be stuck up for. I don't want to be the bystander. I don't want to be that person who is witnessing bad stuff going on and just be like: 'it's not my problem.'

An organizing campaign can draw upon the solidarity that already exists among certain groups of workers, such as bike messengers. Having the solidarity and support of co-workers is necessary for organizing; otherwise, workers can be left vulnerable and subject to employer intimidation (Fantasia 1988; Clawson 2003).

Even some workers who have been hostile to unions in the past see unionization in this sector as necessary. Harry, for example, has previously worked in unionized workplaces; however, because of some negative experiences he had, he was not particularly fond of unions. Harry should be among the more difficult workers to convince to support a unionization campaign (Lopez 2004). Nonetheless, with the precarious working conditions in the same-day courier sector, he, like other messengers, recognizes the need for unionization. Harry notes:

> I saw how unions can be detrimental. I've worked for federal, provincial, and municipal governments before and I could see how almost all of my coworkers who were unionized were just ineffectual workers, and they very

> comfortable ineffectual workers. They were kind of untouchable. I developed a conservative stance against unions from that. But, at the same time, I've always empathized with marginalized groups of workers...The people who are doing messenger work are a marginalized group of people. I think that the union is a way for them to assert themselves and be able to get some returns on their hard work...When there are unfair working conditions, when there is no way for you to pay for your living expenses, let alone keeping your bike on the road, you need [a union].

While often a serious obstacle to organizing attempts (Lopez 2004), worker hostility towards unions can be overcome. As Harry's comments also suggest, if unions are going to remain relevant and be seen as a progressive force, unions need to be fighting to advance the rights and interests of workers in precarious employment relationships and not just protecting the rights and interests of workers who are already organized and find themselves in relatively secure employment (Clawson 2003; Standing 2011).

Workers are more likely to support an organizing campaign if they feel an injustice has occurred, if the blame for this injustice can be attributed to management, and if the union is seen as capable of dealing with the injustice (Hickey et al. 2009). For some messengers, it took a negative experience to convince them that unionizing would be beneficial for themselves and their co-workers. Erica, for example, was hesitant for some time before she came around to supporting the CUPW campaign and signing a union card. She was also, for the most part, content with her job. Her working conditions, however, took a turn for the worse. As she explains: "I was so pissed off. I had a horrible week and my loyalty was finally overshadowed by my frustration with the company. I had a week or two of really unfair treatment." To be

sure, employers who treat workers unfairly and arbitrarily can often be one of the most effective catalysts to persuade workers that organizing is necessary (Hickey et al. 2009). As word spread that CUPW was organizing the same-day courier sector, other workers who were dissatisfied with their working conditions also contacted CUPW to receive more information about the campaign or to sign their cards (interview with Jonah; interview with Mark). When workers' grievances reach a certain threshold, it is a prime moment to organize. While it is not the same as the long-term union-building approach, unions need to take advantage of the opportunities that present themselves to organize disgruntled workers, even if it may resemble the often derided hot-shop approach (Fine 2006; Hickey et al. 2009).

Messengers in the same-day courier sector support the organizing campaign because of the precariousness of their employment and the many injustices that they and their co-workers experience. Some messengers were pro-union and, therefore, predisposed to supporting this organizing campaign. Even some messengers who were hostile to unions in the past acknowledged unionization in the same-day courier sector as necessary. Having examined some of the reasons why messengers support unionization, I now move on to look at some of the strategies and tactics CUPW used to conduct outreach and organize workers in this sector.

Conducting Outreach and Organizing Workers

To launch the campaign, CUPW booked off a dozen or so CUPW members from their jobs at Canada Post to work on the organizing drive. These members, along with Jonah and Mark, went out into the streets of Toronto to conduct outreach with and sign up workers in the same-day courier sector. CUPW members worked on the campaign anywhere from a few weeks to several months. Jonah trained CUPW organizers and provided them with scripts on how to talk with workers in the same-day courier sector. He also provided them with educational and outreach material, such as flyers, pamphlets, and postcards, to give to workers. These documents contained information on why CUPW was trying to organize the sector, how unionization could help to improve the terms and conditions of employment, and the successes CUPW had organizing couriers and messengers in other Canadian cities. These documents also contained information on the employment-related services that CUPW was offering to workers in the same-day courier sector. As the campaign progressed, CUPW also began publishing a series of newsletters called *The Standby* to provide members with updates and to use as outreach and educational material to attract new members. For the campaign, CUPW created a website and a Facebook page (interview with Jonah; interview with Mark). Bike messengers tend to be younger workers and younger people are more likely to be social media users. A Facebook page can be a useful tool to stay in contact with members and provide them with timely updates about the campaign. Facebook is easy to use, facilitates networking, and does not cost the union

anything other than the time invested into creating and maintaining a Facebook page. Other union organizing campaigns have also found Facebook a useful tool to facilitate organizing, especially among younger workers (White 2009; Bryson et al. 2010).

As part of the launch, CUPW also opened up the Courier Worker Centre on Queen St. East in downtown Toronto. The Worker Centre was meant to serve as an outreach and advocacy centre for workers in the same-day courier sector. Similar to other worker centres, the Courier Worker Centre offered workers in the same-day courier sector a variety of employment-related services. The purpose of providing services through the Worker Centre was to help messengers and couriers deal with immediate employment issues, such as having pay withheld, not being paid minimum wage, being terminated without just cause, being injured on the job and having difficulties receiving compensation, and being discriminated against. Quite a few messengers took advantage of these services and some were able to collect back pay, vacation pay, as well as severance pay for unjust dismissal (interview with Mark). Various workshops were held at the Worker Centre, including a tax workshop, a know-your-rights workshop, and a bike maintenance workshop. Messengers found many of the workshops to be quite valuable, especially the tax workshop (interview with Allan; interview with Bill; interview with Eric; interview with Paul; interview with Richard). The Worker Centre was a place where messengers could also stop in to have a cup of coffee, fill up water bottles, warm up on cold days, as well as dry

themselves and use the dryer on rainy days (CUPW 2010 & 2012; interview with Jonah; interview with Mark).

The Worker Centre served as the headquarters for the organizing campaign where monthly meetings were also held. The Courier Worker Centre, however, closed after two years of operation due to budgetary constraints. Unfortunately, the space at the Courier Worker Centre never reached the volume of use for organizing and advocacy that CUPW envisioned at its opening. CUPW Courier Local 104 now has its monthly meetings at the United Steelworkers Hall in downtown Toronto, and Mark works out of CUPW's Mississauga regional office and runs the campaign from there (CUPW 2010 & 2012; interview with Mark). Nonetheless, during the time it was in operation, the Worker Centre was a tangible symbol of CUPW's commitment to workers in the same-day courier sector. By operating the Courier Worker Center, CUPW can be seen as using elements of the community unionism approach in its organizing strategy (Fine 2006).

Messengers have a considerable amount of standby time, and this proved to be a strategic time for CUPW organizers to talk with messengers about the campaign. Workers are not paid for the time they are on standby. By approaching messengers to talk about the benefits of unionizing during the time that they are at work but are not being paid, workers may be more likely to respond positively to the union's message. Messengers differed in their responses when approached by postal workers. Some were quite receptive to postal workers, and a considerable number of workers in the

same-day courier sector were signed up during this initial card signing stage. Not all messengers, however, were receptive. Some messengers viewed CUPW members, who work for Canada Post, as outsiders and not as fellow workers from the same sector. CUPW and its members may see workers in the same-day courier sector as doing similar work as postal workers. The reverse, however, is not necessarily true. While not reflecting his opinions, Jay comments: "a lot of people don't want to be represented by people who represent postal workers." Despite being engaged in similar work, there is no natural affinity between workers in the same-day courier sector and workers who are employed by Canada Post. Affinity is something that needs to be developed.

It can also not be assumed that workers who are being organized will automatically identify with the union or see the union as representing their interests (Robinson 2002). While recognizing the need for a union and being in support of the organizing campaign, Nicole, for example, comments: "a lot of us don't really identify with being a postal worker, because we're not hired by the government, but, at the same time, we are like postal workers because we're dealing with mail." Ideally, Nicole favours a more exclusive bike messenger union. Occupational identity is important. Unions need to recognize the differing occupational identities of workers that they are attempting to organize and build structures so that these workers can come to identify with the union. While postal workers may closely identify with their

union, it does not mean that the workers that CUPW is attempting to organize will automatically identify with the union.

In addition to going out into the streets, CUPW tried to make initial contact with couriers and messengers by using a cold-calling strategy. CUPW was able to obtain lists of workers for some of the same-day courier firms that it was trying to organize. These lists also included workers' cellphone numbers. These phone numbers, however, were also their work phone numbers and in many cases, these cellphones are the property of the courier firm. Additionally, when workers use their phones for non-work purposes, they are often required to pay for additional airtime. Receiving a phone call on a cellphone owned by the employer about a union campaign by a complete stranger, while having to pay for that phone call, can easily annoy, even anger, someone. Reflecting on the limited efficacy of this cold-calling strategy, Mark comments: "we tried a certain amount of cold-calling, and it does not work in this age. They are like: 'how did you get my cellphone number?' They would freak out." While CUPW did receive some positive responses using the cold-calling strategy, quite a few responses were not; as Jonah comments: "some of those negative responses were very negative." Cold-calling proved to be unsuccessful and counterproductive, and CUPW quickly abandoned this strategy. Cold-calling may not be the most effective means in making initial contact. First impressions are important and unions have to rethink whether cold-calling will do more harm than good when they try to establish initial contact with workers.

After new members were signed up, they were also encouraged and given training on how to conduct outreach and sign-up their co-workers. Such a strategy is part of the union building approach typically associated with community and social movement unionism, where the goal is to empower workers to take charge of the campaign. Worker-to-worker outreach is often essential to build a strong and cohesive union. This sort of grassroots organizing is also often consuming and labour intensive (Hurd 1993; Clawson 2003; Kumar and Schenk 2006). However, with the amount of standby time during a typical workday, messengers active in the campaign had quite a few opportunities to try to recruit their co-workers. Bike messengers tend to congregate together when on standby and they also spend much of this time talking with each other. Bill describes some of his involvement in doing outreach. He comments: "a lot of it has just been talking to people and encouraging people to sign cards, talking to people about why unionization is great, or not even necessarily why unionization is great, but pointing out the ways that people are getting ripped off by their companies." Some bike messengers were quite successful in organizing their co-workers. Steve, for example, signed up the majority of workers at his company—Turnaround Courier—more or less by himself. He describes how it took both dedication and enthusiasm to persuade a majority of his co-workers that unionizing was the means to gain employee status and to improve the terms and conditions of their employment. As Steve comments: "I pushed for it. I got my company unionized by really being an activist about it, by being persuasive, and by talking to people about it." Like Bill, Steve also

stressed the ways in which messengers were subject to considerable exploitation and employer abuse when talking with his co-workers. Having co-workers conduct outreach and sign up other workers in the same firm is often more effective than having people from the outside doing the organizing. Workers in the same workplace understand each other's realities and can often be more convincing than outside organizers that something needs to be done about the terms and conditions of employment.

Co-workers or at least workers in the same sector know how to relate to each and have a much better understanding of the grievances than outsiders. As Jonah comments: "messengers understand the industry better. They know how to talk to each other better. They know where to find each other. They already have friends in the industry. Postal workers, while well-meaning, don't have those advantages." Because outsider organizers may lack the knowledge on the dynamics of the sector as well as personal connections, outside organizers face obstacles that insiders do not. When organizing sectors that are outside their traditional jurisdiction, unions need to think about how the organizers are able to relate to workers who are being organized. Having organizers who already work in the sector may be a more effective strategy, especially when organizing a sector with little or no union history.

As the campaign proceeded, messengers became more strategic about organizing. There is considerable turnover in the same-day courier sector and this can often pose a problem for organizing. Traditional models of organizing tend to be based on stable

workforces. With high turnover rates, solidarity can be hard to develop and sustain. Maintaining campaign momentum might also be difficult with a high turnover rate (Savage 1989; Hodson et al. 1993; Aguiar 2006; Smith 2006). However, a high turnover rate can also be used strategically to a union's advantage. At one point in the campaign, Quick Messenger Service (QMS) was looking for new bike messengers, and management asked its messengers if they knew anyone looking for work. Messengers often find work through word-of-mouth and it is not unusual for a courier firm to make such a request of its workers. Through the occupational community, messengers can quite easily find friends looking for work who are also pro-union. The messengers at QMS were able to have their pro-union friends hired. By having their pro-union friends hired, they were able to stack the workplace with pro-union workers and further tip the balance in CUPW's favour (interview with Mark). This can be seen as a variant of the classic salting strategy, where a union plants organizers in particular workplaces with the intent of initiating a union campaign (Erlich 2005). While not planting organizers inside the workplace, which was unnecessary as organizing was well underway, messengers at QMS were able to have pro-union workers hired who would support the organizing campaign. In sectors where there is a high turnover rate, getting pro-union workers hired, while an organizing campaign is underway, is a strategy that other unions could also use. The classic salting strategy, or at least a variation thereof, still has applicability.

Workers in sectors that have no tradition of unionization may be unfamiliar with unions and have a limited understanding of what unions do. If workers do not understand what unions are or what unions do, they may be suspicious of unions and are unlikely to support an organizing campaign. In such situations, unions need to take additional time to educate workers about unions and their roles in workplaces, the economy, and society (Wial 1993; Holgate 2005). Some messengers were initially suspicious of CUPW, seeing the union as some sort of outside organization only signing up messengers to take their money. Messengers were first organized under federal labour law. Federal labour law requires that new members pay a $5 initiation fee to the union, which is supposed to indicate a material commitment to the union. For some workers, an initiation fee may make the union appear as if it is just out for their money; it does take effort on behalf of organizers to win over suspicious workers so that they come to trust the union. Casey, for example, comments:

> It wasn't until I saw Mark did I realize that it wasn't just some organization that was trying to make money off of us. I was very skeptical when the union first came out. Why are these guys always bothering us type of thing? Now it's making a little bit more sense to me.

Mark has worked as a messenger for over a decade, mostly in Toronto, and knows many bike messengers in the city. As Casey's comments suggest, an insider who is part of the occupational community is more likely to be seen as authentic and trustworthy than an outsider. Such an organizer will likely have more success in convincing reluctant workers to support an organizing campaign.

While time consuming, educating workers and raising their awareness are often necessary before they come around to supporting an organizing campaign. Chris, for example, comments on how Mark raised his awareness of the many injustices and exploitative employment practices occurring in the same-day courier sector. If a worker is used to being exploited and trampled upon daily, he or she may think that this is just the way things are and come to accept his or her lot in life (Webster et al. 2008). Chris remarks:

> I became a member of CUPW because I was educated about what was going on in this business. I was totally blind to it. I was educated by Mark who told me a lot of stuff that I wish I had known years ago…I've just gone from one job to another and didn't think too much about it. But to actually fight and go after a company is different.

Educating workers and convincing them that they have rights are also critical to developing workers' class consciousness. By developing their consciousness, it can also empower workers to take a stand against their employers, as it did for Chris. This sort of intensive outreach is reminiscent of both the community and social movement unionism approach to organizing (Gapasin and Bonacich 2002; Bronfenbrenner and Hickey 2004; Cranford et al. 2006; Fine 2006). Raising workers' awareness by taking the time to explain what is wrong with working conditions, what rights they have as workers, and how unionization may help to improve their working conditions is critical to win workers' support, especially in sectors with little or no union history.

Messengers are told repeatedly by their employers that they are independent contractors (interview with Erica; interview with Ian). Because of this, quite a few

workers in the same-day courier sector are, or at least were, under the impression that they do not have rights to organize (interview with Mark). If workers lack adequate knowledge of employment and labour law, they may simply acquiesce to what their employer indicates as their employment status and what rights they have as workers. To be sure, workers who are in a disguised employment relationship can often be uncertain about what their employment status should be and what rights they should have as workers (Kim 1999; Martin et al. 2006; Zatz 2008). Because they are treated as self-employed, some workers in the same-day courier sector needed to be convinced that they have legal rights to organize, before they came around to support the unionization campaign. This, however, took considerable effort, time, and persistence. Mark comments:

> [Some messengers and couriers] don't honestly believe that they have a right to organize, and that's a conversation that you have to have before you can get them to sign a card. You have to convince them that that is the truth. A lot of them will ask you questions and no matter how many times you answer it, they just don't believe they can organize.

In many organizing drives, convincing workers to support unionization can be a challenge. However, when workers are in a disguised employment relationship, convincing them that they can actually organize is an additional challenge that unions have to deal with and overcome. It is one obstacle unions do not encounter when organizing workers who already have the status of employee.

This section examined some of the strategies and tactics that CUPW used to reach out to and organize workers in the same-day courier sector. Not all messengers,

however, were immediately supportive and some required further convincing. CUPW had to undertake additional outreach to convince hesitant workers to support the organizing campaign. In sectors without any union history, additional outreach is often necessary. Despite conducting considerable outreach and putting in substantial effort to educate and convince workers that unionization is both beneficial and possible, some workers remained fundamentally hostile to unions, while other workers were reluctant to support the campaign due to employer intimidation. Some workers also had low levels of self-esteem, and this also negatively impacted some workers' support for the campaign. Why some messengers remained resistant or reluctant to support the campaign is the focus of the next section.

Worker Resistance and Hesitation towards Unionization

Not all workers in the same-day courier sector favour unions. Both Mark and Jonah recall incidents where they and other CUPW organizers had approached some workers to talk to them about organizing they were met with significant hostility. Some workers do not want anything to do with this particular organizing campaign or with unions more generally. Phil, for example, is one such anti-union messenger, despite being quite bitter about his working conditions. He comments: "unions are often run by the same shysters that corporations are run by. I don't particularly trust them...Heads of corporations are scumbags and the union heads are not much different." To be sure, images of corrupt union bosses and union goons are widespread

enough. Some unions have had their fair share of corruption and have used heavy-handed tactics to intimidate workers. Phil's anti-unionism—and worker anti-unionism more generally—needs to be situated as part of the historical legacy of business unionism. Workers' negative experiences with business unions have resulted in many workers rejecting unions, even when they have serious grievances about their work. The labour movement must deal with such worker anti-unionism. Combating anti-unionism among the working class needs to be part of the union renewal effort, and it will likely take a coordinated strategy by the labour movement. Worker anti-unionism cannot simply be written off as a case of false consciousness (Lopez 2004).

Some workers who are hesitant to support the campaign are not necessarily anti-union; rather, their reluctance to support the campaign openly stems from an underlying fear of employer reprisal. Indeed, fear of employer reprisal can dissuade a significant number of workers from openly supporting an organizing campaign or even signing a union card (Clawson 2003). Gerry, for example, expresses concern over possible employer reprisals. This concern is in spite of the fact that most messengers at his company had already signed union cards. He notes: "I haven't signed nothing yet...I'm just happy and secure that I have a job today. I'm not really into stirring up friction with my company." With the power relations between workers and employers, messengers are placed in a situation where they are at the whim of the courier firm and are quite vulnerable to employer intimidation. This vulnerability can result in workers being averse to supporting the organizing campaign. Mark notes:

> The nature of the work creates a huge obstacle in that people are terrified because people work on commission. The employer does not have to just fire you to get rid of you. They can shut you out. They can constructively dismiss you through taking away good work and leaving you with bad work.

While it is illegal for an employer to discipline workers for their union activities, in the case of messengers it can be difficult to prove that a reduction in deliveries or receiving less valuable deliveries is a form of discipline. A courier firm can always claim that particular workers are receiving fewer or lower value deliveries because of a fluctuation in demand for its services or come up with some other sort of justification. Fear of employer retaliation—a fear that is justified in the same-day courier sector—does result in some workers being reluctant to support the unionizing campaign. To be sure, fear of employer reprisal can often be the number one obstacle in organizing workers and this fear can be amplified in situations where workers are marginalized and have little job security (Clawson 2003).

Creating a climate of fear is often central to employers' union avoidance strategies. Jay, for example, recounts an intimidating encounter when his employer confronted him about his views on the unionization campaign. He remarks:

> There was one point if you wanted to pick up your cheque you had to meet [the owner of the courier firm] and he wanted to talk to you about CUPW and see what was going on. That's really intimidating…I have never met the owner and all of sudden he wants to meet me in a coffee shop and won't give me my cheque unless I come there and meet him…He was like: 'well, what is going on?' I just played dumb about it. I told him I didn't know anything about it…He went on this big rant about how hard it would be for him. It would shut down his business and he would have to fire all the

> bikers, fire all the drivers...It is pretty scary when your boss tells you: 'if the union came in, I'll just have to fire everybody.'

Forcing a worker to meet his or her employer to receive a paycheque can be understood as a captive audience meeting. Jay had no choice but to meet his employer. Unlike other captive audience meetings where there can often be a group of workers, Jay had to meet with his employer one-on-one. This is considerably more intimidating than having a few co-workers present. Such meetings and the message that is communicated are examples of the power an employer can exercise over workers. It shows how employers can create a climate of fear and reinforce worker vulnerability. Jay's case is not an isolated incident. Other messengers also note how they were confronted by their employers about the organizing campaign. Like Jay, they professed ignorance of the organizing campaign because of fear of employer reprisal (interview with Allan). Employer intimidation can often be one of the most significant obstacles in an organizing campaign and can make many workers hesitant to support the organizing drive or at least be open about it (Fantasia 1988; Doorey 2007).

There are three groups of workers in the same-day courier sector: car couriers, walking messengers, and bike messengers. These workers displayed differing levels of support for the organizing campaign. Bike messengers are often in contact with each other throughout the working day. Many also bond outside of work. Bike messengers have an occupational community. When workers have an occupational community and can discuss the problems and issues that they have at work, there is a stronger tendency to look at their workplace issues and problems as structural as opposed to

personal issues. When they understand issues as structural, workers are also more likely to see unionization as a remedy to workplace problems (Nelson and Grams 1978; Davis 1986; Levi et al. 2009). Bike messengers also tend to have less fear of employer reprisal and are more open about their involvement in the campaign. At one stage of the campaign, for example, some messengers wore union t-shirts when they went into the courier firm's office to display their support the campaign. Mark comments: "bike messengers experience a greater amount of solidarity and are willing to fight. They are not afraid. Maybe because they are not here for a long time, maybe because they are not risk-adverse, but they are not afraid. They are willing to do something." Messengers tend to be younger workers and they can take more risks and stand up to their employer without fear of repercussions, such as being disciplined or losing their job.

While CUPW's original intent was to organize car couriers along with walking and bicycle messengers at as many same-day courier firms in Toronto as possible, as the campaign proceeded, the focus shifted to organizing walking and bike messengers at a few targeted companies. Car couriers turned out to be not as amicable to organizing as bike messengers. Car couriers faced more structural impediments to organizing than bike messengers. Car couriers tend to be older and are more likely to have dependents. Many car couriers are also recent immigrants, speak English as a second language, and may have limited employment opportunities elsewhere. For these workers, losing their employment would place them and their dependents in

quite a precarious position. For some workers, the stakes are higher for being involved in an organizing campaign. Car couriers also tend to be more isolated. They often spend their standby time by themselves, sitting in their automobiles. They also do not congregate in one spot as bike messengers tend to do during their standby time. All these factors tend to diminish car couriers' ability to develop the solidarity necessary for them to take a stand against their employer without fear of reprisal (interview with Jonah; interview with Mark). Jonah explains the situation with car couriers and how it hindered the union's ability to organize them. Stressing their isolation, he comments:

> With the car couriers, they work almost exclusively alone. They have almost no contact with any other workers. So it is incredibly difficult to build a sense of collective anything and it is especially difficult to get any of them willing to take risks on behalf of themselves and other workers when they hardly have any contact with those workers.

Car couriers constitute the majority of workers in the same-day courier sector in Toronto; however, because of their social location and the isolation that they experience on the job, they proved to be a more difficult group of workers to organize. While there were a significant number of car couriers willing to support the campaign and sign union cards, the lower level of support compared to bike messengers, along with the impediments these workers faced, made organizing car couriers seem like a herculean task. Because of the obstacles the union faced in organizing car couriers, bike and walking messengers became the focus of the campaign.

Another factor that limits worker support for unionization is the shame and embarrassment some workers feel about working in the same-day courier sector. Work

in the same-day courier sector can be stigmatizing. As discussed in Chapter Six, messenger work is often seen as "dirty work" and messengers are often seen as "dirty workers." Having their occupation seen as "dirty work" can impact workers' sense of self-worth and self-esteem, which in turn can diminish ambitions to fight to improve their term and conditions of employment (Ashforth and Kreiner 1999; Webster et al. 2008). Mark comments on what he has witnessed:

> People are embarrassed and ashamed of what they do...especially the car [couriers]...The shame factor in organizing is huge. People who have been in the industry for a long time feel a great deal of shame about where they have ended up. They have no reason to. They probably work harder than a lot of people. You go to work. You deserve respect. But they don't feel that way, and it's a big deal. It's a huge hindrance and you see it all the time when you talk to them.

While Mark highlights this feeling among car couriers, some bike messengers also note how they see similar levels of low self-esteem among their bike messenger co-workers. Steve, for example, comments: "they are so shit upon. They can't even dream that big anymore...There is so much apathy." Low levels of self-esteem and feelings of worthlessness can result in defeatism. If workers feel defeated, they may believe that it is not even worth trying to improve their terms and conditions of employment. Without workers feeling that they deserve something better, there is a slim chance that they will support and commit to an organizing campaign. Maria comments: "it really sucks that people are getting paid $6 an hour to do something. What sucks more is that there are people who are willing to do that. I think a big obstacle would be educating people about their own working conditions." Overcoming low levels of self-esteem

and self-worth among workers, as well as convincing them that they deserve something better, is necessary for successful organizing (Chun 1999; Webster et al. 2008). This is where elements of craft and occupational unionism could be particularly useful; both promote workers taking pride in what they do (Cobble 1991; Wial 1993). By instilling workers with a sense of pride, craft and occupational unionism could help to raise their self-esteem and convince them that they do deserve and can achieve better working conditions.

Convincing some workers in the same-day courier sector to support the campaign has been a challenge for CUPW. Worker anti-unionism is one factor. Employer intimidation also played a central role. Different groups of workers within in the sector also face different impediments and obstacles to organizing. For example, car couriers' work tends to be isolating, which, in turn, means that they are more likely to face difficulties in developing the solidarity necessary for organizing without fear of retaliation. Another challenge CUPW had to face was getting workers to become more active in the campaign. This is what the next section examines.

Messenger Involvement in the Organizing Campaign

Getting messengers to become more active in this campaign has been a challenge for CUPW. Lack of worker involvement is a common occurrence in many campaigns. It is also a factor why many organizing drives are ultimately unsuccessful (Hickey et al. 2009). Workers in the same-day courier sector work hard and put in long hours and

this, in turn, limits how much time and energy workers can reasonably put into an organizing campaign (Perline and Lorenz 1970). Mark comments:

> People are certainly willing to sign cards. They have talked a lot about it, but it was very hard to get them to invest. Messengers work very long hours. They, on average, work longer hours than most people. While the bike couriers do have a great sense of community, they are pretty tired. They're pretty tired and to get them to do extra stuff, to come to meetings, is very hard. The nature of the work means that the majority of couriers do not finish in the same place every day. There is no counting on where they will end. If you've been out all day and you've finished near home, it is very hard to convince yourself to cross the city again to go to a meeting.

Messenger work is physically demanding and workers often feel drained at the end of a long day. Bill comments: "it is a tiring job. It is hard at the end of a long day of work to have the enthusiasm to show up at a meeting. Sometimes you just want to go home or you want to drink. You can't really fault people for that." When work is strenuous, workers may lack the energy and zeal to engage in activities, such as unionizing, which also demand considerable energy, commitment, and enthusiasm (Perline and Lorenz 1970). While many messengers support the campaign, they found it difficult to commit energy and time to the campaign. Bill continues:

> A lot of people who are receptive are like: 'yeah, a great idea, let's do it,' but then never come to a meeting, never actually do anything, except maybe sign a card...It has been difficult to get people involved and to feel like they constitute to the union as opposed to the union being this outside thing which is coming in to change things.

Many workers tend to take a more passive approach to organizing, relying on others to be more active. Jay, for example, comments: "I've gone to a few meetings, but I don't

really need to go to the meetings anymore, because they know I support them." Unions need to think of ways to keep the workers, such as Jay, motivated and active in the campaign. Successful unionization attempts often result from active effort by the members and not just their passive support (Clawson 2003; Hickey et al. 2009). Strategies derived from the community unionism approach, which promote multiple ways for workers to become involved, may be necessary to increase worker participation in organizing campaigns, such as this one (Cranford et al. 2006).

Organizing in the same-day courier sector has been a long and drawn out process, and long and drawn out campaigns may also damper workers' enthusiasm and commitment. If there are many delays and if workers do not see progress being made, it can often be challenging to convince workers to continue invest time and energy. Support for organizing tends to be reduced when there are numerous delays. Workers' perception of union instrumentality may start to wane when there are many delays. Delayed negotiations can result in workers losing faith in the union's ability to improve pay or working conditions (Hurd and McElwain 1998; Egan-Van Meter and Eisenberry 2009). While seeing himself as fairly active, Allan remarks:

> I wish more people were enthusiastic about getting involved...It has been a year and a half. People just got tired of coming here for meetings every month. They thought it was a lot of the same stuff that we were talking about over and over again. It is also just the nature of the job. People come and go. You might have people who are for it and sign cards, but they get another job six months later. And then you have to get the new people who are hired involved. There is always that hovering level of enthusiasm.

Meeting fatigue can occur during union organizing campaigns, especially if little progress is being made. Workers may feel, quite legitimately, that they have other more valuable things to do than dedicate time and energy to meetings, especially if it is not going to result in an immediate improvement in their circumstances (Hyman 1989). While an enthusiastic and committed minority of messengers show up to meetings, by far the more difficult task is persuading messengers more generally, even those with pro-union sympathies, to commit time and energy to the campaign. Some pro-union messengers, who were active in the campaign, exited the occupation and this also impeded campaign momentum. A high turnover rate can have both favourable and unfavourable consequences for organizing (Hodson et al. 1993; Aguiar 2006).

Unions need to focus more energy on strategies that keep workers interested in and committed to organizing, especially during a long campaign facing many hurdles. Organizing campaigns are often more successful and unions are often in a stronger bargaining position when there is significant and sustained member participation (Hickey et al. 2009). As the community unionism approach emphasizes, unions need to develop multiple entry points for members to become engaged in order to facilitate more worker involvement in the campaign. However, it cannot just be any sort of involvement. Members need meaningful ways to participate (Cranford et al. 2006). Lack of messenger involvement in this organizing campaign was an issue and also likely contributed to its limited success. There were other hurdles CUPW faced in organizing messengers. CUPW also had to deal with a number of legal obstacles in

organizing messengers. The next section examines some of the legal obstacles that CUPW faced in this campaign and what it did to attempt to overcome these.

Legal Issues in the Courier Organizing Campaign

CUPW initially organized messengers in Toronto under federal jurisdiction. There are a few reasons for this. CUPW's collective agreements with Canada Post are under federal jurisdiction. Since the *CPCA* requires courier firms to charge at least three times the rate that Canada Post does for the delivery of a first-class letter, CUPW was under the impression that courier firms came under federal jurisdiction. In its campaigns in other cities, CUPW organized workers under federal jurisdiction and the courier firms did not challenge this jurisdiction. Organizing under federal labour law also does not require a vote, as long as the union can sign up at least fifty percent of workers in a given workplace. If fifty percent of workers are signed up, it is card check only; if the union can sign up a majority of workers at a particular firm, it can receive automatic certification. Requiring a vote gives employers time to mount anti-union campaigns and, if voting can be avoided, many unions will opt for that route (Riddell 2003; CUPW n.d.; interview with John; interview with Jonah; interview with Mark).

Since messengers in the same-day courier sector are legally considered independent contractors, the next step for a union, after acquiring enough signed cards, is to prove that workers should be considered employees with rights to associate and bargain collectively. Each time CUPW made submissions to or went before the

Canada Industrial Relations Board (CIRB) in Toronto, as well as other Canadian cities, it successfully argued that these workers are employees for the purposes of collective bargaining, in spite of challenges by the courier firms. After about a year and a half of organizing, three same-day courier firms in Toronto were certified under federal labour law (CUPW n.d.; interview with Mark).

In its written submissions to the CIRB, CUPW argued that: the dispatcher has control over the labour process; the delivery time frames and the order in which pick-ups and deliveries are made are determined by the courier firm; there are rules that workers are required to follow; the hours of work are set by the courier firm; messengers have to continually report their whereabouts to the courier firm; messengers need to inform the dispatcher of any delays or problems making deliveries; messengers cannot work for other companies at the same time because of the economic realities of the job; messengers cannot refuse a delivery; some of the essential tools, such as the communication devices and waybills, are supplied by the company; messengers have no say over the prices charged to clients; clients are invoiced by the courier firm and not by individual messengers; and messengers are fully integrated into the employer's operations and not running their own independent businesses (interview with John; interview with Jonah; interview with Mark).

Lawyers for the courier firm countered with their own arguments claiming that: messengers can carry out their duties as they see fit and are not under the control of the dispatcher; messengers have no fixed work schedule; messengers do not have to report

into work at specific times; messengers do not need to inform the dispatcher if they are not available; messengers are contractually allowed to work for other companies; messengers' contracts do not have a non-compete clause; messengers can hire and pay someone else to make a delivery; messengers own their own equipment and pay for their own maintenance; messengers pay their own income taxes; and messengers are paid a commission, not wages or salaries (interview with John; interview with Jonah; interview with Mark).

In all three cases that CUPW brought before the CIRB in Toronto, the CIRB ruled that messengers should be considered employees under the Canadian Labour Code and certified CUPW as the bargaining agent for these workers. CUPW was successful in overcoming two obstacles organizing workers who are disguised employees: signing up the majority of workers and proving employee status. Proving that messengers are disguised employees, however, was not the end of the legal issues that CUPW faced in this organizing campaign. After stalling negotiations, one of the courier firms—Turnaround Courier—retained a lawyer and challenged the federal jurisdiction. The lawyer argued successfully that the courier firm is a provincial undertaking and not a federal one. This proved to be a devastating blow to the overall organizing campaign. Shortly after Turnaround Couriers won the judicial review, Turtle Express retained the same lawyer and also requested a review of the federal jurisdiction. Upon review, CUPW lost this certification as well. Both of these companies argued that they only make deliveries within the city of Toronto, and cross neither provincial nor national

borders, and therefore should not be considered a federal undertaking (interview with Mark). Only firms that conduct inter-provincial commerce are considered federal undertakings (Block 2006).

QMS, however, has operations in other Canadian cities and does make deliveries across provincial borders. For these reasons, CUPW continued to believe that QMS was a federal undertaking. CUPW continued in its attempt to negotiate a first contract with QMS. However, akin to many anti-union employers facing first contract negotiations, QMS dragged out negotiations in an attempt to undermine the organizing drive, despite its legal duty to bargain in good faith. Stalling and delaying negotiations are among the most powerful tools that employers can use when intent on remaining union-free. Stalling by employers is also a central reason why many newly formed unions face many difficulties in reaching a first collective agreement (Cranford et al. 2005; Fisk and Pulver 2006). Negotiations continued to proceed at a slow pace with only a few sporadic bargaining meetings taking place. Nonetheless, some progress was being made and the union and employer had agreed to some non-monetary aspects of the collective agreement. However, QMS eventually decided to challenge the federal jurisdiction and hired a lawyer from a top Canadian law firm. CUPW conceded because of uncertainty that it could successfully argue that QMS should fall under federal jurisdiction. Not prepared to give up, CUPW decided instead to re-organize workers at QMS under provincial labour legislation (interview with Mark).

Re-Organizing under the Provincial Collective Bargaining Regime

At the time of writing, CUPW is not attempting to re-organize workers at Turtle Express or Turnaround Couriers under provincial labour law. This means that these workers will, unfortunately, continue to work as disguised employees with few rights and protections. CUPW no longer felt it had the necessary support of these workers to carry on with the organizing campaign. It is easy for workers to become disillusioned and demoralized when campaigns run into many legal problems and obstacles. In addition, many of the workers who were active in the early stages of the campaign have moved on and are no longer working for these firms (interview with Mark). Turnover can be a double-edge sword, and it can also work to an employer's advantage in an organizing campaign. The lack of long-term attachments of many low-paid workers to a particular employer can result in difficulties in sustaining an organizing drive and building a viable union (Wial 1993). Turtle Express and Turnaround Couriers are also relatively small employers—the norm in the sector—and the bargaining units for these firms would have only been eleven and ten workers respectively. It is often difficult for unions to justify the financial resources necessary to organize small bargaining units. By losing these certifications and with limited prospects for future success in organizing, it is difficult to convince those in charge of the union's treasury to continue to finance an organizing campaign. CUPW is also refocusing its organizing efforts to the logistics sectors. Logistics firms tend to be larger operations, employing more workers on an average than same-day courier firms,

and this is why CUPW is shifting its organizing priorities to this sector (interview with Mark).

Even if bargaining units are established, it is still expensive for unions to negotiate on behalf of and provide services to workers in small workplaces, as a result of the limited dues that can be collected from these workers. The difficulties that unions face in organizing smaller bargaining units speak to the problematic structure of the collective bargaining regime in Canada and Ontario. Firm-based organizing and bargaining are difficult and labour-intensive in an economic sector dominated by small, decentralized employers. The same-day courier sector is a clear example of the need to move beyond a collective bargaining regime where bargaining occurs between a single employer and its employees. In highly, but only locally, competitive sectors, regulating labour across multiple employers is necessary if a union is going to be able to raise workers' income and secure other bargaining goals that impact employers' bottom line (Browny and Fudge 1993; Wial 1993; Cobble 2004).

QMS is one of the larger same-day courier firms in Toronto. With a bargaining unit of thirty workers, while not large, QMS is considerably bigger than both Turtle Express and Turnaround Couriers. When this firm challenged federal jurisdiction and CUPW conceded, it did not result in the demoralization of workers; rather, these messengers became even more determined to form a union. As Mark comments:

> All the guys got angry. They were annoyed. They are more solid now than they ever were before. They want their union...There is a good group of guys at QMS when the organizing started in 2009, a very genuine and

> honest group of people. They liked each other. They worked with each other. They had a great sense of solidarity, and they have stuck with it.

Messengers at QMS were enraged with their employer's actions, which they interpreted as just another tactic to quash the organizing campaign, and it was relatively easy for CUPW to re-sign a majority of workers at this firm. QMS was aware that CUPW was re-organizing its messengers under provincial labour law and it hired a number of additional workers in an attempt to dilute support for the campaign. The messengers at QMS, however, acted strategically again. They embraced the new workers, seeing them as comrades and informing them of their struggle. The tactic paid off and the messengers at QMS were able to convince enough of the new workers to support the organizing campaign and vote yes to unionization. Five days after CUPW applied for the certification with the Ontario Labour Relations Board (OLRB), a vote was held and over seventy percent of the messengers at QMS voted in favour of the union. CUPW once again became certified as the bargaining agent for these workers, but this time under provincial labour law. In spite of being recognized by the OLRB as employees for the purposes of collective bargaining, QMS, once again, attempted to contest the employee status of its messengers, insisting that they are independent contractors to derail the organizing campaign. Based on how QMS acted when workers were organized under federal jurisdiction, it is not surprising to see that QMS is using whatever means at its disposal to thwart the organizing campaign (interview with Mark).

At the time of writing, CUPW was still trying to negotiate a first contract with QMS and in November 2012, both parties entered into conciliation. However, conciliation failed and negotiations broke down. In response, CUPW filed for first contract arbitration with the OLRB. CUPW has also been using a number of other tactics to put pressure on QMS to step up to the table and negotiate. Since messengers are misclassified as self-employed, companies such as QMS have been violating employment standards and other legislation governing the employment relationship (interview with Mark). The pressure tactics that unions can use in negotiations with employers, who misclassify their workers as self-employed, are different than the tactics a union can use when negotiating with employers who classify their workers as employees.

Unlike employers who treat workers as employees, those who hire workers as disguised employees often: do not pay workers an equivalent to minimum wage; do not pay workers vacation and statutory holiday pay; do not pay the employer share of Canadian Pension Plan and Employment Insurance premiums; and, if they can get away with it, may also not pay for workers' WSIB coverage.[18] In such a situation, the union can threaten to file claims against the employer for violating employment standards and other applicable legislation. Filing claims against employers is a strategy that has been used in an organizing drive for messengers in Chicago. In this situation,

[18] As discussed in Chapter Six, the WSIB considers bike messenger as workers and, therefore, automatically covered. However, many courier firms do not pay into WSIB and deceive their workers about their automatic coverage.

messengers were also working as disguised employees, and the employer was refusing to negotiate. Successful claims can be costly and threatening to file claims can catch the employer's attention (Bossen 2012). Since QMS attempted to contest messengers' employment status to undermine the campaign, CUPW has filed a number of claims against the employer through the Ontario *Employment Standards Act* for non-payment of minimum wage and non-payment of statutory holiday and vacation pay. By doing this, CUPW has, at least, caught the employer's attention (interview with Mark). While it may be considered a top-down approach to organizing, unions can use the law as a tool to pressure employers to negotiate. Effective organizing strategies can combine both top-down and bottom-up approaches (Milkman 2006; Bossen 2012).

Negotiating the first contract remains a long and drawn-out process; however, the union remains confident that, with entering binding arbitration, a first contract can be reached. While CUPW may be able to secure a contract with QMS, organizing the entire same-day courier sector in Toronto is going to be a more difficult task, requiring significantly more resources. Mark, for example, estimates that it would take at least ten years of organizing to secure a decent number of contracts in the same-day courier sector in order to improve working conditions significantly. Committing to such a lengthy organizing campaign may be beyond CUPW's as well as many other unions' means. Without a change in collective bargaining legislation to mandate or, at least promote, sectoral or multiple-employer organizing and bargaining, sectors such as the same-day courier sector are likely to remain unorganized or, at the most, only partially

organized. Collective bargaining needs to be broadened beyond the single-employer model that prevails in most of Canada (Cranford et al. 2005). Such a bargaining regime should ultimately be non-voluntary because employers can opt out when it does not suit them. For multi-employer bargaining to be effective, it should be made mandatory. While CUPW employed many strategic moves in its attempt to organize messengers, it could have also used other ones, which the next section examines.

Lessons for the CUPW Campaign

Since the CUPW campaign has only realized limited success, it is important to examine other organizing campaigns that have been more successful in organizing marginalized and precariously employed workers. As I stressed in this chapter and the previous one, multi-employer or sectoral bargaining is critical to organize workers in sectors dominated by small and highly competitive employers. However, multi-employer or sectoral bargaining is only part of the overall strategy to organize precariously employed workers. Other unions have been successful in organizing workers in a similar situation to messengers, by employing a community organizing approach, using direct action, and putting pressure not only on the employer, but also the consumers of the services. One notable example of a unionizing campaign with marginalized and precariously employed workers that has used these tactics successfully is the Justice for Janitors (J4J) campaign, launched by the Service Employees International Union (SEIU) (Cranford 2004; Milkman 2006; Savage 2006).

This campaign may have some valuable lessons for organizing drives, such as CUPW's.

Within the labour movement, SEIU is known for organizing and representing precariously employed workers in the low-wage service sector. In the late 1980s, SEIU launched J4J campaigns in various cities throughout the United States. The most well-known and researched campaign was the one in Los Angeles (Savage 1989; Milkman 2006). The vast majority of the janitorial workforce in Los Angeles is Latina and Latino. Many are also undocumented workers (Howely 1990). These workers, like messengers, occupy a marginalized position in the labour market. The campaign in Los Angeles was framed in terms of social justice, with a stress on immigrant rights; in doing so, SEIU was able to build alliances with non-labour organizations in the workers' communities in addition to unions and other labour groups throughout the city. To win over these workers and to help deal with the problems that they face, SEIU realized it had to also advocate for immigrant rights as part of the campaign (Clawson 2003; Cranford 2004; Milkman 2006).

The building services sector and same-day courier sector have many similarities. Janitorial firms compete with each other for short-term contracts with building owners. These cleaning contracts can often be as short as thirty days. In this sector, competition also tends to be cutthroat. Similar to same-day courier firms, cleaning contractors compete by undercutting each other. Janitorial work is also often based on piece-rate wages rather than hourly wages, the result being that contractors often pay workers

less than minimum wage. Because cleaning contractors must price the cost of their services low to secure contracts, and because labour costs make up the bulk of each contractor's costs, wages are under constant pressure in the building services sector (Savage 1989; Clawson 2003; Cranford 2004; Milkman 2006).

Organizing in such a sector requires different strategies than unions traditionally use to organize workers. In the J4J campaign, SEIU used a variety of strategies to organize workers in fragmented workplaces and exert pressure on non-traditional targets. To organize workers who are employed by contractors, SEIU realized that it needed to confront and pressure not only the direct employer—the cleaning contractor—but also the building owners (Nissen 2004). The union attempted to pressure cleaning contractors to recognize the union and, at the same time, pressure building owners to only use unionized contractors. This campaign also mobilized workers, community groups, and other labour organizations, using highly visible tactics, such as mass public demonstrations, to bring attention to the plight of low-wage immigrant workers in Los Angeles. Workers from other unions and labour groups, religious leaders, local politicians, and community supporters joined the janitors in the streets and also acted in other solidaristic ways (Savage 1989; Cranford 2004). The victories by janitors were built in large measure on community-based power. Community-based power is particularly effective to deploy when the work cannot be moved out of the community (Silver 2003). The J4J campaign was also based a multi-employer or a sectoral organizing strategy. This is necessary because of

the ability of building owners to shift work from one contractor to another. If one contractor is organized and therefore has to pay higher wages, which also means charging more for its services, a building owner can easily switch to a non-unionized janitorial firm (Milkman 2006; Savage 1989; Wial 1993).

Gaining support from other labour and non-labour groups is often necessary to successfully organize workers in precarious forms of employment. CUPW could have tried to form stronger alliances with other labour and non-labour groups in Toronto concerned with precarious employment and the working conditions for bike messengers. CUPW did have a relationship with the Workers' Action Centre (WAC)[19] in Toronto and endorsed the WAC's Wage Theft Campaign (CUPW n.d.). However, it does not appear that this was a continuous relationship. At the early stages of the campaign, CUPW was also working with the Toronto Bike Messengers' Association (TOBMA) to organize messengers (Edwards 2009). However, TOBMA is a volunteer-run organization and the organization appears to have difficulties sustaining membership participation. Some of the members who were active in TOBMA were the same individuals who tended to be more active in the courier organizing campaign. With a finite amount of time, these individuals committed their time to the CUPW campaign, as they saw the union as a more effective vehicle to improve the terms and conditions of employment for messengers than TOBMA. For the most part, TOBMA organizes alley-cat races, such as the May Day fundraiser event for the BMEF

[19] The Workers' Action Centre is a worker organization dedicated to improving the working conditions of workers in precarious forms of employment in Toronto (WAC 2013)

(interview with Bill; interview with Eric; interview with Mark). Nonetheless, CUPW could have tried to sustain its relationship with this organization as a means to facilitate organizing. It could have also formed alliances with other worker advocacy groups in Toronto that are trying to combat precarious forms of employment, such as the Good Jobs for All Coalition,[20] as well as working more closely with the WAC. Alliances could have also been formed with cycle advocacy groups, such as Cycle Toronto.[21] This organization dedicates itself to legitimizing and promoting the bicycle as a mode of transportation in Toronto (Cycle Toronto 2013). Working together, CUPW and Cycle Toronto could improve the image of messengers, help legitimate messenger work as a genuine occupation, and assist in turning the occupation into a sought-after, dignified, and environmentally-friendly occupation. Media campaigns could also be used to improve the image of messengers. Other marginalized workers have used media campaigns successfully to change public perceptions of their occupation by showing workers in a favourable light (Hardy 2010; Stroumboulopoulos 2013).

Making the plight of workers visible to the public through direct action is also a strategy CUPW could have utilized. Messengers work on the streets and they could have collectively used their vehicles to disrupt traffic in order to bring attention to their situation, in a manner similar to cycling activists, who use critical mass rides to

[20] The Good Jobs for All Coalition is a coalition of 27 labour and community groups dedicated to improving the working conditions of precariously employed workers as well as pressuring the government to reform labour laws and employment standards (Good Jobs for All Coalition 2012).
[21] Cycle Toronto was formerly the Toronto Cyclists Union.

promote bicycling. Critical mass rides started in San Francisco in 1992. Many of the original participants were also bike messengers. Critical mass rides are a form of direct action where bicycle activists gather in large numbers—ranging from hundreds to thousands of cyclists—and ride together through the city streets, often during rush hour, to increase the visibility of cycling. It is an effort to reclaim the streets and challenge the hegemony of the automobile. As it disrupts normal traffic patterns based on the automobile, critical mass rides have attracted media attention. Participants also often distribute flyers and pamphlets to motorists and pedestrians to inform them of the purpose of the action (Blickstein and Hanson 2001; Furness 2007). There are about one-hundred and fifty messengers working in downtown Toronto; if all, or even most, of these messengers came together, there would be enough cyclists to form a critical mass. During such an action, messengers could distribute flyers and pamphlets to motorists and pedestrians, informing them of their precarious employment, their disguised employment, and the anti-unionism of their employers. Media attention could also be gained through this strategy, which could raise public awareness of the situation of bike messengers and put pressure on employers. Critical mass rides could also be a way to increase member participation in the campaign.

Putting pressure on the consumers of courier services who, in turn, could pressure the employer is a tactic CUPW could have borrowed from SEIU. The main consumers of same-day courier services are banks, law offices, accounting firms, and advertising agencies. Many of these organizations have public reputations to protect and they may

not want to do business with firms that violate employment standards and other legislation or, at least, not have this business relationship publicly known.[22] CUPW could have tried to put pressure on these consumers to do business only with courier firms that abide by employment standards and also respect workers' rights to associate and bargain collectively. CUPW could have demonstrated in front of the buildings where the consumers of courier services have their offices to highlight messengers' precarious working conditions and disguised employment relationship, as well as the anti-unionism of employers. If certain businesses and institutions need to maintain good reputations, such tactics could be used as a part of the overall strategy. If the customers of same-day courier firms were large consumers of courier services and threatened to take their business elsewhere, same-day courier firms may succumb to this pressure and begin to abide by employment standards, recognize messengers' rights to associate, and bargain in good faith.

Conclusion

CUPW was quite ambitious in attempting to organize the entire same-day courier sector and, regardless of outcome, an attempt at organizing precariously employed workers, such as messengers, should be commended. CUPW is at least trying to organize workers and this is more than what many other unions are doing. Unionizing

[22] The Royal Bank, for example, was recently embroiled in a controversy surrounding its use of temporary foreign workers and undertook a public relations campaign to regain the 'trust' of Canadians (CBC News 2013). Public shaming, if used strategically, can at least raise the public's consciousness of a corporation's behaviour, which may pressure a corporation to change the way it does business.

workers and negotiating a first collective agreement is a difficult and time-consuming undertaking in almost any situation. However, with the structure of the same-day courier sector consisting of small, decentralized employers, the cutthroat competiveness among same-day courier firms, along with the strong anti-unionism of many employers in this sector, organizing workers and negotiating a collective agreement become even more of a challenge. The structure of the current collective bargaining regime, which promotes single-employer bargaining units, is a hindrance to organizing workers in the burgeoning service sector where small and highly competitive employers dominate.

Despite the support of many workers, the dedication, and the resources poured into this organizing campaign, CUPW has realized only limited success. Unfortunately, this means that work in the same-day courier sector is likely to remain a precarious form of employment and that messengers will likely continue to work as disguised employees with few rights, benefits, and protections. Without changes to the collective bargaining regime, organizing drives in sectors such as the same-day courier one will likely continue to face many obstacles. Multi-employer or sectoral bargaining needs to be mandated or, at the very least, promoted, if trade unions are going to make serious inroads in the burgeoning and highly competitive service sector dominated by small, decentralized employers.

While CUPW did employ some innovative tactics to organize messengers in Toronto, it could have incorporated other tactics and strategies into its unionizing

campaign. CUPW could have allied itself with other groups in the community, who are also concerned with precarious employment. Even groups who are concerned with promoting the rights of cyclists could have been brought onboard this campaign. Undertaking direct action, such as a critical mass ride, could have also brought more visibility to the campaign. Finally, pressure could have also been applied to the consumers of same-day courier services who, in turn, could have pressured employers to recognize the union and respect workers' employment and labour rights. Nonetheless, to make serious inroads into sectors such as the same-day courier one, the structure of the collective bargaining regime ultimately needs to be revamped in order to mandate or, at least, facilitate multi-employer or sectoral bargaining.

Chapter Nine:
Conclusion

In an economic system where the profit motive is central, strong tendencies exist for employers to find ways to reduce operating costs, with labour costs often being a prime target (Marx, 1976). One way for employers to reduce labour costs is by treating their workers as if they are self-employed, specifically as independent contractors, instead of employees. However, based on the relationship with the person or firm that pays them to produce a good or furnish a service, a significant number of these workers should not be considered self-employed. Bike messengers in Toronto are one example of a group of workers whose self-employed status entails a misclassification. Messengers should, accordingly, be classified as employees (Bickerton and Warskett 2005; Kansikas 2007). Messengers can also be considered precariously employed workers (Cranford and Vosko 2006). Bike messengers face numerous financial, social-psychological, and physical consequences as a result of their working conditions. These consequences should be seen as stemming from or, at least, being amplified by their disguised employment relationship. Messengers earn low incomes, lack extended health and dental benefits, have little job security, are not covered by employment standards, are often subject to discriminatory treatment, are exposed to dangerous working conditions, have a high risk of occupational injury, and, on top of this, they do not have rights to associate or bargain collectively.

When compared to the ideal type of self-employment, messengers' working lives are far from this type of self-employment. The ideal type self-employed individual is

personified in the figure of the petite bourgeoisie, who owns the means of production, directs and controls the labour process, directly sells his or her products or services on the market to consumers, manages his or her own business by using his or her entrepreneurial judgment, and has a chance to make a profit or incur a loss through his or her entrepreneurial activities (Steinmetz and Wright 1989; de Witt 1993; Connelly and Gallagher 2006). Such a description does not conform to messengers' employment in Toronto. Hiring workers as independent contractors is a pervasive practice in Toronto's same-day courier sector. Until recently, messengers tended to acquiesce to their self-employed status and accept it as legitimate. However, as a result of the CUPW organizing campaign, more messengers have come to question their self-employed status. Many now consider their self-employed status a sham and see themselves as disguised employees. If nothing else, CUPW's courier organizing campaign has, at least, raised messengers' awareness of the rights, benefits, and protections that they should have as workers.

In their own accounts of their working lives, messengers see themselves as being integrated into and dependent on the firm for which they work. All that messengers do is make deliveries, which make them integral to a courier firm's main business of making deliveries. Messengers do not have their own customers; the customers to whom they deliver are the courier firms' customers. Messengers are not running a business independent of the courier firm. While they are paid a piece-rate wage instead of an hourly wage, they do not have the ability to make a profit or incur a loss or

undertake entrepreneurial activities, because they have no effective control over the workload. Despite messengers having some autonomy over their immediate labour process, the dispatcher—who is part of the management structure—determines who makes which deliveries; therefore, it is he or she who ultimately has control over the messenger labour process. Messengers are also under the control of the courier firm through the rules that they are required follow. If they do not follow these rules, they can face discipline, including termination of their contract. While their contract does not prohibit it, the requirement to be on standby to secure work throughout the day largely precludes them from working for other firms simultaneously. Messengers are dependent on one courier firm for the entirety of their income.

While messengers own their bicycles and messenger bags, they cannot use their means of production independently. It is only through the intermediary of the courier firm that their means of production—or "sham property" (Marx 1973: 499)—can be put into action. Owning the means of production may create a chance for independence; however, this is not the case for messengers. Additionally, the investment by messengers in their tools—their bicycles and messenger bags—is significantly outweighed by the investment that the owners of courier firms have made to run their businesses, including setting up the communication system, buying or renting office space, as well as paying for office staff, advertising, licenses, and the other costs of operating a courier business. The waybills, which are essential for billing and tracking purposes, are also supplied by the courier firm and have the courier firm's

logo printed on them. Messengers' bicycles and bags are not the key elements of the courier business. Rather, it is the courier firms that own and control the key elements of the business. For these reasons, messengers are a group of workers who can be considered disguised employees.

Employers have quite a few incentives to misclassify their workers as self-employed. By hiring workers as independent contractors, employers can: reduce operating costs by not having to pay an hourly minimum wage; skirt other obligations as employers, such as paying the employer contribution of EI and CPP; avoid paying payroll taxes; achieve a more flexible workforce by paying workers a piece-rate and being able to hire and fire workers at will; and avoid unionization, because current collective bargaining legislation prohibits most independent contractors from associating (Davidov 2002; Cranford et al. 2005; Vosko 2005). With lax enforcement of labour and employment law and with minimal penalties if employers are caught, there are few disincentives for employers to hire workers as independent contractors. Misclassifying workers as self-employed can often be worth the risk. In the same-day courier sector, courier firms appear to be willing to take this risk. Additionally, the way in which firms remain competitive and stay in business is to operate in the same way that other firms operate. Since all other firms are hiring messengers as independent contractors, an individual same-day courier firm has little choice, let alone incentive, other than to treat its messengers in the same way.

While it is pervasive in the same-day courier sector, disguised employment relationships need to be challenged so that workers vulnerable to exploitation, such as messengers, can gain the protections, benefits, and rights that they are intended to have through labour and employment law. Currently, we are witnessing a rise in market-mediated work and employment relationships; however, as the situation in which messengers find themselves makes clear, these relationships cannot be left to market forces. Collective bargaining and employment standards legislation exist for a reason. Messengers in Toronto are one group of workers who could use the protections, rights, and benefits available through employment and labour legislation. As individuals, however, workers face numerous obstacles to challenging their self-employed status if they believe it to be a misclassification. Challenging employment status should not and cannot be borne by individual workers alone. Currently, one of the few ways to combat disguised employment is through organizing. As I have stressed in this dissertation, to make sure that workers have access to the rights, benefits, and protections that they are intended to have under current labour and employment legislation, unions need to go on the offensive, organize workers in disguised employment relationships, and contest these workers' status as self-employed so that they can be classified under the more appropriate status of employees. However, even with the support of a union, successfully challenging disguised employment and, more importantly, maintaining employee status can be difficult, as the case of the CUPW courier organizing campaign demonstrates.

Legislative changes will be necessary to curtail disguised employment relationships. Because workers often have limited power to contest the employment status under which they are hired and continue to work, one option is that workers could be presumed to be employees, unless an employer can convincingly demonstrate otherwise. The onus should not be on workers to prove that they are employees. This is unduly burdensome. The onus should be on employers to prove that workers should legally be considered independent contractors. Such a shift could help to curtail the employer practice of hiring workers as disguised employees and limit the spread of market-mediated work relationships (Ladd 2012). If the onus is not shifted, employment standards legislation needs to be enforced more stringently so that employers who deliberately misclassify their workers as independent contractors are held accountable and prosecuted. Particular attention should be paid to sectors where this practice is more likely to occur. As I have stressed throughout this dissertation, in highly competitive and labour intensive sectors, such as the same-day courier sector, there is a tendency for firms to treat their workers as if they are self-employed, but a significant number of these workers are disguised employees. This employer practice needs to be challenged and specific sectors need to be targeted.

Ontario and other jurisdictions in Canada could follow the example of California. California recently amended its labour and employment legislation with the aim of rooting out disguised employment relationships. Under this legislation, employers who wilfully misclassify workers as independent contractors can be fined $5000 to $15,000

per worker for the first offence and $10,000 to $25,000 per worker for repeated violations. This is in addition to other penalties, such as back taxes. Wilful misclassification means that the employer knows that he or she should have classified the worker as an employee, but has instead classified that worker as an independent contractor. Guilty employers must also publically display for a year—such as on their websites or other prominent spaces accessible by workers and the general public—that they have violated employment and labour laws, by wilfully misclassifying their workers as independent contractors (California 2011). Currently, in jurisdictions such as Ontario, there are too many incentives and not enough deterrents for employers to hire workers as independent contractors, when they should be hired as employees. Heavier fines and public shaming of employers who deliberately misclassify workers, along with more proactive enforcement of applicable legislation, may help to halt these exploitative practices in which some unscrupulous employers engage. Even if this change was made to employment standards, it needs to go hand-in-hand with organizing. Effective enforcement of employment standards is more likely in sectors where a strong union presence exists (Thomas 2009).

While stricter enforcement of employment standards and increased fines may dissuade some employers from hiring workers as disguised employees, some unscrupulous employers are still likely to continue with this practice. There are also some workers who may be legitimate independent contractors; however, many of these workers could still benefit from labour and employment rights and protections.

Another legislative option to help remedy the situation of workers, such as messengers, could be to extend employment standards and collective bargaining rights to all workers dependent on their ability to work for survival regardless of their employment status. Scholars, such as Cranford et al. (2005) and Vosko (2010), advance this argument. They contend that all workers dependent on the sale of their labour-power for their livelihood should be able to associate and bargain collectively with their employers, unless there is a demonstrated reason why certain workers should not have these rights and protections. With a changing political economy that emphasizes such things as flexible forms of work, market-mediated work, contracting out, and entrepreneurialism, the legal concepts of employee and employer, these scholars suggest, are becoming increasingly unhinged from the reality of work. By removing the legal distinctions between employees, dependent contractors, and independent contractors, all workers would be entitled to basic employment and labour protections, rights, and benefits. As a longer-term strategy, the labour movement and its allies need to make sure that all workers who need them are afforded basic employment standard protections, as well as the right to associate so that they can attempt to further advance their rights and interests. As I have stressed throughout this dissertation, work for pay is increasingly becoming subject to market forces, resulting in a proliferation of non-standard employment relationships, many of which are also precarious. To protect and advance the rights and interests of workers, whose employment is increasingly becoming subject to market forces, expanding the scope of

labour and employment legislation to cover these workers will eventually be necessary. Work and employment relationships, as this study demonstrates, cannot be left to market forces.

However, with the prevailing political winds, convincing governments to extend current employment standards and collective bargaining legislation to a broader group of workers would likely be close to a herculean task. With the current neoliberal emphasis on promoting markets and fostering the entrepreneurial spirit, it is questionable if governments—such as the current federal government in Canada and the provincial one in Ontario—would impose more stringent regulations on markets that they see as commercial ones. Likewise, it is uncertain that they would extend protections to individuals who are not seen as being in need of them. As I have stressed throughout this dissertation, on pragmatic grounds and based on a purposive approach to the application of labour and employment law, challenging a workers' status as self-employed can be justified if it is suspected that these workers are disguised employees (Davidov 2002). Continuing to challenge the employment status of workers in disguised employment relationships through organizing attempts, such as CUPW's, can be used as an intermediate strategy. Until the labour movement and trade unions have enough clout to demand significant changes to labour and employment law, contesting the employment status of workers in disguised employment relationships is one of the few options for workers to gain the labour and

employment rights, benefits, and protections that they are intended to have under current legislation.

Messengers' employment is precarious and this can largely be attributed to their disguised employment relationship. Contesting the employment status of workers can address the issue of disguised employment. However, gaining employee status by itself does not mean that the work will be non-precarious. Workers may be classified as employees; however, if the pay remains low, the working conditions remain dangerous, and the employment remains insecure, their employment is still precarious (Cranford and Vosko 2006; Vosko 2010). To limit precarious employment, changes to employment standards legislation will also be necessary. To tackle the issue of low-pay, every worker, regardless of their employment status and mode of remuneration, should be able to earn at least the minimum wage. The minimum wage, however, should be re-conceptualized as a living wage. Raising the minimum wage to a living wage is central to reducing poverty and income inequality (Thomas 2009). Revamping employment standards could also address the lack of employment security. This could include requiring longer notices of termination, requiring a substantiated reason for termination of employment, increasing termination pay, increasing employer penalties for wrongful dismissal, as well as other measures to protect workers from losing their jobs. To contend with dangerous working conditions and the high rates of occupational injury in the messenger and other hazardous occupations, the WSIB needs to become more proactive in its enforcement and institute tougher penalties for employer non-

compliance. Proactive inspections are especially important in sectors where there is a high degree of non-compliance, such as the same-day courier sector. Ultimately, workers' compensation coverage should be extended to cover all those who work for living, including those who are considered to be self-employed and legally classified as independent contractors. No one should be subject to dangerous working conditions and if they are hurt while at work, they should receive adequate compensation. As the situation in which bike messengers find themselves makes clear, work and employment relationships need to be regulated to protect workers.

Effective enforcement of employment standards and other applicable legislation is much more likely in sectors where there is a union presence. Any changes to employment standards and other applicable legislation to deal with precarious employment need to go hand-in-hand with changes to the collective bargaining regime (Thomas 2009). The current collective bargaining regime modeled on Wagnerism, which promotes single employer bargaining, is proving to be ill-suited in economies where the production of services accounts for a larger share of employment (Wial 1993). In many parts of the service sector, small and decentralized employers tend to dominate. In such sectors, organizing workplace by workplace is a difficult, expensive, and time-consuming process. As an analysis of the CUPW courier organizing campaign demonstrates, collective bargaining legislation needs to be changed to mandate sectoral or multi-employer bargaining. If multi-employer bargaining is not mandated, the collective bargaining regime needs to be changed to, at least, promote

multi-employer bargaining. As I have stressed throughout this dissertation, in highly but only locally competitive sectors there is a need to regulate labour across multiple employers.

In sectors where competition is purely local, such as the same-day courier sector, multi-employer or sectoral bargaining can also be beneficial for employers. If all firms in a sector are organized, then no employer would have to fear becoming uncompetitive because they have to pay union wages and benefits. Organizing all employers could help to deal with the cutthroat competiveness that plagues the same-day courier sector and discipline firms operating on the margins. Organizing all employers in a given sector can help to ensure that all employers are operating on a level playing field (Cobble 1991; Clawson 2003). However, multi-employer or sectoral bargaining does not necessarily mean that all employers and workers in the same-day courier sector would be required to have the exact same contract. Multi-employer or sectoral agreements can contain sub-agreements, which can take into account the specific circumstances of workers and firms (Herzenberg et al. 2000).

As the analysis of the CUPW courier organizing campaign demonstrates, unions are likely to achieve only limited success when organizing employer-by-employer in sectors dominated by small and intensively competitive employers. In spite of the innovative strategies and tactics that unions are using to organize and conduct outreach with workers—tactics which are nonetheless necessary—the structural obstacles that unions face under current labour law can often mean that these strategies and tactics

will have limited efficacy. At the time of writing, CUPW still has one certified bargaining unit; however, contract negotiations ended up proceeding at such a slow pace that CUPW and QMS entered into conciliation. After that failed, the union was forced to enter binding first contract arbitration. Since QMS is the only same-day courier firm currently being organized in Toronto, it is not surprising that this firm is putting up considerable resistance. CUPW may be able to secure a contract with QMS; however, organizing the entire or most of the sector, as CUPW originally intended, does not appear to be forthcoming in the near future. While it is not abandoning workers in Toronto's same-day courier sector, CUPW is stepping back and refocusing its organizing efforts elsewhere.

A significant number of bike messengers in the same-day courier sector support unionization; however, motivating messengers to become more involved in the campaign has been a challenge. This is often a problem in long campaigns facing many hurdles and delays (Hurd and McElwain 1998; Egan-Van Meter and Eisenberry 2009). Since they are mobile workers, messengers are never certain where they are going to end up in the city at the end of the working day. After a long day at work, messengers are often too tired to bike across the city to attend meetings or become active in the campaign in other ways. Unions need to develop new structures to allow workers to become more active in the union and in organizing campaigns, which need to be adaptable to take into account the specific circumstances of the workers who are being organized. To successfully organize and maintain a strong union, workers need

to feel that they constitute the union. Unions need to place more emphasis on facilitating this. What is needed is stronger emphasis on the union-building approach typically associated with community and social movement unionism, where the aim is to empower workers so that they can forge the kind of union that they want. Such an approach can help give workers the confidence, the solidarity, and resources that they need to stand up for themselves and confront employers, not only during the organizing campaign, but also in their ongoing employment relationship (Clawson 2003; Cranford et al. 2006).

Most messengers took a more passive approach to the campaign, signing cards, but not being particularly active in the campaign itself. This too is often a common occurrence in many organizing campaigns. Nonetheless, there were some active messengers who were quite successful in building the union, as well as organizing their co-workers. The messengers at QMS, for example, made some strategic moves, such as getting pro-union workers hired when the firm was looking for new messengers. A high turnover rate is often an obstacle in organizing campaigns; however, unions can use a high turnover rate strategically to their advantage. CUPW made other strategic moves, such as hiring a messenger to be the campaign coordinator. His embeddedness in the messenger occupational community did facilitate organizing, and it helped him to win over some of the suspicious and hesitant workers. Having an insider who understands the sector and can relate to the workers can help to reinforce the idea that the union is not an external entity coming in to

change things. Having such individuals work on the campaign can also help to build trust among the organizers and workers. If a campaign is going to rely primarily on paid staff, hiring someone who has worked in the sector to do the organizing is one strategy that other unions could emulate in future campaigns. This is especially important in sectors with little or no union history. Nonetheless, while CUPW did employ some innovative strategies, it could have used others, such as allying with other labour and non-labour groups in Toronto, using direct action to bring attention to the plight of messengers, and putting pressure on the consumers of courier services who, in turn, could also pressure same-day courier firms to recognize the union and bargain in good faith.

More research needs to be conducted on disguised employment in Canadian and other labour markets. While hiring a worker under the legal status of an independent contractor can be a legitimate relationship for paying someone to furnish a good or produce a service, a significant number of these relationships, at least twelve percent, are disguised employment. Disguised employment is a social problem. To develop effective strategies to combat disguised employment, additional research will be necessary. Future research could examine how widespread the phenomenon of disguised employment is in contemporary labour markets.[23] Is disguised employment more prominent in labour markets where the work is seen as low-skilled? Is disguised

[23] The most recent research on the prevalence of disguised employment relationships in Canadian labour markets is over a decade old (Lowe and Schellenberg 2001).

employment an issue in labour markets where the work is seen as skilled or semi-skilled?

Research could also examine whether the characteristics of disguised employment differ by economic sector. What are the relationships like between employers and workers who are treated as self-employed in other economic sectors, such as construction, freight transportation and logistics, agriculture, accounting, home-based healthcare, hairstyling, journalism, computer programming, telemarketing, and retail sales, for instance? Can these workers legitimately be considered self-employed or are they also in a disguised employment relationship? Research could also look into the reasons why employers hire workers as independent contractors when they should be hired as employees. Such research could examine whether hiring workers as independent contractors is a deliberate employer strategy used to reduce operating costs and avoid unionization or due to ignorance of labour and employment law. Additionally, research could examine which workers are more or less likely to end up in disguised employment relationships. Does a worker's social location affect whether he or she will end up working as a disguised employee? Most messengers are white, male, Canadian-born workers. However, it is critical to look at how race, gender, ethnicity, immigration status, and other markers of social location influence the likelihood that someone will end up in a disguised employment relationship.

Researchers could examine what other legislative changes might be implemented to help combat disguised employment relationships. Revamping employment

standards and collective bargaining may be one such method, but other state action might be necessary as well. Researchers could also examine what sort of impact legislative changes have had in jurisdictions that have tried to tackle disguised employment relationships, such as California. Finally, researchers could also examine further what else trade unions and their allies could be doing to challenge disguised employment relationships, as well as what strategies are the most effective in organizing disguised employees. While this dissertation examined some strategies that are relevant to organizing workers who are disguised employees, there is a need to explore what other strategies could be used to organize workers who are in a disguised employment relationship. Since the courier organizing campaign only realized limited success, this is critical to explore.

There are many vulnerable workers who are in need of protection in their work relationship; however, not all workers, even those who should obviously be considered employees, have this protection. By hiring workers under the legal status of an independent contractor, workers can be disentitled of the rights, benefits, and protections that they should have under current legislation. Employment standards and labour law exist for a reason: to protect vulnerable workers and to afford workers certain rights and benefits. For social and economic justice, all vulnerable workers who are dependent on their ability to work should be entitled to the protections, rights, and benefits that employees now enjoy. How labour and employment rights, benefits, and protections can be attained for a growing number of workers is uncertain. To be

sure, it will likely entail quite a battle for the labour movement, trade unions, and allies to ensure that many vulnerable workers can someday gain these critical labour and employment rights, benefits, and protections.

Appendices

Appendix A

List of Research Participants

Note: All bike and walking messengers have been given pseudonyms; CUPW organizers are their real first names.

Interview 1, Eric: bike messenger, male, mid-20s

Interview2, Phil: bike messenger, male, early-40s

Interview 3, Jill: bike messenger, female, early-20s

Interview 4, Paul: bike messenger, male, mid-20s

Interview 5, Ivan: bike messenger, male, late-20s

Interview 6, Bill: bike messenger, male, mid-20s

Interview 7, Allan: bike messenger, male, late-20s

Interview 8, Harry: bike messenger, male, late 20s

Interview 9, Gerry: bike messenger, male, late-30s

Interview 10, Peter: bike messenger, male, mid-20s

Interview 11, Derrick: bike messenger, male, late 30s

Interview 12, Sarah: ex-bike messenger, female, mid-20s

Interview 13, Jim: walking messenger, male, mid-40s

Interview 14, Ian: bike messenger, male, early-30s

Interview 15, Richard: bike messenger, male, early-30s

Interview: 16, Chris: walking messenger, early-40s

Interview 17, Casey: bike messenger, male, early-40s

Interview 18, Nicole: bike messenger, female, mid-20s

Interview 19, Jay: bike messenger, male, early-30s

Interview 20, Maria: bike messenger, female, late-teens

Interview 21, Mark: CUPW staff, male, early-40s

Interview 22, Erica: bike messenger, female, early-20s

Interview 23, Steve: bike messenger, male, mid-20s

Interview 24, Jonah, CUPW staff, male, early-30s

Interview 25, Hank ex-bike messenger, male, early-60s

Interview 26, John, CUPW staff, male, early-60s

Appendix B

Informed Consent Form (Couriers and Messengers)

Date: _____

Study Name: Work and Worker Organizing in the Same-Day Local Courier Sector

Researcher: David Lavin, PhD Candidate, Graduate Program in Sociology, York University, lavind@yorku.ca

Purpose of the Research: The purpose of this study is to examine the growing phenomenon of precarious self-employment in Canada and on a union's attempt to organize self-employed workers. This study has two goals. The first is to examine the causes and consequences of self-employment in the same-day local courier sector, how this impacts working conditions, and how these relate to changes in the Canadian economy, particularly its labour markets. The second is to explore the processes and implications of organizing self-employed workers and how this relates to labour movement renewal in Canada. The workers that will be interviewed are car couriers and bike messengers who work for Toronto's numerous same-day local courier firms. The union that is attempting to organize these workers is the Canadian Union of Postal Workers (CUPW) with support from the Toronto Bike Messengers Associations (TOBMA) and I will also be interviewing key individuals in both these organizations.

What You Will Be Asked to Do in the Research: You will be asked to discuss your opinions and experiences of working as a courier or messenger in Toronto and your opinions of and experiences with TOBMA, CUPW, and the courier organizing campaign. You will also be asked to fill out a brief questionnaire. The interview will take approximately 30 minutes to one hour.

Risks and Discomforts: I do not foresee any risks or discomfort from your participation in the research.

Benefits of the Research and Benefits to You: Research participants will be offered $10 for attending the interview session. I do not foresee any additional benefits of the research to you but hope that you will find it interesting to discuss these subjects.

Voluntary Participation: Your participation in the study is completely voluntary and you may choose to stop participating at any time. You will be offered $10 for your participation. Payment will be made at the beginning of interview. You have the right

to refuse answer any questions. Your decision not to volunteer will not influence the nature of your relationship with York University either now, or in the future.

Withdrawal from the Study: You can stop participating in the study at any time, for any reason, if you so decide and you will be paid $10 regardless. Your decision to stop participating, or to refuse to answer particular questions, will not affect your relationship with the researcher, York University, or any other group associated with this project. In the event you withdraw from the study, all associated data collected will be immediately destroyed wherever possible.

Confidentiality: Recordings and notes from interviews will not be associated with identifying information. All information you supply during the research will be held in confidence and unless you specifically indicate your consent, your name will not appear in any report or publication of the research. The data will be collected through handwritten notes and a digital recording device. Your data will be safely stored in a password protected computer and/or a locked filing cabinet. Only I will have access to this information. The data will be stored for ten years and then destroyed by shredding of all paper files and permanently deleting all computer files. Confidentiality will be provided to the fullest extent possible by law. This research will be presented in my dissertation, in conference presentations, in journal and other academic publications.

Questions About the Research? If you have questions about the research in general or about your role in the study, please feel free to contact me, David Lavin, by e-mail (lavind@yorku.ca). You can also contact the York University Graduate Program in Sociology at 416-736-2100 Ext. 33913. Address: 2075 Vari Hall, 4700 Keele Street, Toronto, Ontario, Canada M3J 1P3. This research has been reviewed and approved by the Human Participants Review Sub-Committee, York University's Ethics Review Board and conforms to the standards of the Canadian Tri-Council Research Ethics guidelines. If you have any ethical concerns or questions about this process or about your rights as a participant in the study, please contact the Sr. Manager & Policy Advisor for the Office of Research Ethics, 5th Floor, Research Tower, York University (telephone 416-736-5914 or e-mail ore@yorku.ca).

Legal Rights and Signatures:

I,_____, consent to participate in the study "Work and Worker Organizing in the Same-Day Local Courier Sector" conducted by David Lavin. I have understood the nature of this project and wish to participate. I am not waiving any of my legal rights by signing this form. My signature below indicates my consent.

Signature _____ **Date** _____

Participant

Signature _____ **Date** _____

Principal Investigator

Informed Consent Form (Key Individuals at CUPW)

Date: _____

Study Name: Work and Worker Organizing in the Same-Day Local Courier Sector

Researcher: David Lavin, PhD Candidate, Graduate Program in Sociology, York University, lavind@yorku.ca

Purpose of the Research: The purpose of this study is to examine the growing phenomenon of precarious self-employment in Canada and on a union's attempt to organize self-employed workers. This study has two goals. The first is to examine the causes and consequences of self-employment in the same-day local courier sector, how this impacts working conditions, and how these relate to changes in the Canadian economy, particularly its labour markets. The second is to explore the processes and implications of organizing self-employed workers and how this relates to labour movement renewal in Canada. The workers that will be interviewed are car couriers and bike messengers who work for Toronto's numerous same-day local courier firms. The union that is attempting to organize these workers is the Canadian Union of Postal Workers (CUPW) with support from the Toronto Bike Messengers Associations (TOBMA) and I will also be interviewing key individuals in both these organizations.

What you will be asked to do in the Research: You will be asked to discuss your opinions and knowledge of the courier sector and the courier and messenger workforce in Toronto and your opinions of and experiences with TOBMA, CUPW, and the courier organizing campaign. The interview will take approximately 30 minutes to one hour.

Risks and Discomforts: I do not foresee any risks or discomfort from your participation in the research.

Benefits of the Research and Benefits to You: I do not foresee any additional benefits of the research to you but hope that you will find it interesting to discuss these subjects.

Voluntary Participation: Your participation in the study is completely voluntary and you may choose to stop participating at any time. You have the right to refuse answer any questions. Your decision not to volunteer will not influence the nature of your relationship with York University either now, or in the future.

Withdrawal from the Study: You can stop participating in the study at any time, for any reason, if you so decide. Your decision to stop participating, or to refuse to answer particular questions, will not affect your relationship with the researcher, York University, or any other group associated with this project. In the event you withdraw from the study, all associated data collected will be immediately destroyed wherever possible.

Confidentiality: All information you supply during the research will be held in confidence and unless you specifically indicate your consent, your name will not appear in any report or publication of the research. If you do consent to be identifiable you can still request to make comments off the record. These comments will remain anonymous. The data will be collected through handwritten notes and a digital recording device. Your data will be safely stored in a password protected computer and/or a locked filing cabinet. Only I will have access to this information. The data will be stored for ten years and then destroyed by shredding of all paper files and permanently deleting all computer files. Confidentiality will be provided to the fullest extent possible by law. This research will be presented in my dissertation, in conference presentations, in journal and other academic publications.

Questions about the Research? If you have questions about the research in general or about your role in the study, please feel free to contact me, David Lavin, by e-mail (lavind@yorku.ca). You can also contact the York University Graduate Program in Sociology at 416-736-2100 Ext. 33913. Address: 2075 Vari Hall, 4700 Keele Street, Toronto, Ontario, Canada M3J 1P3. This research has been reviewed and approved by the Human Participants Review Sub-Committee, York University's Ethics Review Board and conforms to the standards of the Canadian Tri-Council Research Ethics guidelines. If you have any ethical concerns or questions about this process or about your rights as a participant in the study, please contact the Sr. Manager & Policy Advisor for the Office of Research Ethics, 5th Floor, Research Tower, York University (telephone 416-736-5914 or e-mail ore@yorku.ca).

Legal Rights and Signatures:

I,_____, consent to participate in the study "Work and Worker Organizing in the Same-Day Local Courier Sector" conducted by David Lavin. I have understood the nature of this project and wish to participate. I am not waiving any of my legal rights by signing this form. My signature below indicates my consent.

Signature_____ **Date**_____

Participant

Signature_____ **Date**_____

Principal Investigator

I,_____, consent to having my name appear in the publication of this research. I am not waiving any of my legal rights by signing this form. My signature below indicates my consent.

Signature_____ **Date**_____

Participant

Signature_____ **Date**_____

Principal Investigator

Appendix C

Interview Guide: Couriers and Messengers

1) Getting a job as a courier/messenger

Probes:

Why did you start working as a courier/messenger?

Where did you find out about the job?

Did you have any preconceptions of the job before you started working as courier/messenger?

Were you hired directly by the company?

How long have you worked as a courier?

What did you do before?

How long do you plan on working as a courier/messenger?

Were you offered any training when you started?

How did you learn how to do the job?

Were you hired as an independent contractor or an employee?

What are the terms and conditions of your contract with the courier firm?

Can you describe your employment contract?

2) Typical working day

Probes:

What time do you start working?

How many hours do you work in a typical day, week, or month?

Are there times when you work more or less than this average?

Do you have a set route for deliveries or do you respond to dispatches and then make deliveries?

What is your relationship like with the dispatcher?

What are you responsible for when you pick up and deliver a letter/parcel?

Can you describe how you make deliveries, starting from when you pick up a letter, parcel, or package until you drop it off?

If you are late making a delivery are there any consequences?

Who do you come in contact with when you make deliveries?

What are these interactions like with them?

What is your relationship like with the owner(s) of the courier company?

How many deliveries do you make on a typical day?

Are there times when you make more or less deliveries than this average?

How far do you travel on a typical day?

Do you think you work hard?

Is there much downtime during an average workday?

What do you do during your downtime?

What do you like the most about your job? What was your best moment working?

What do you like the least about your job? What was your worst moment?

3) Income and expenses

Probes:

Are you paid by the delivery or by the hour?

Do you get a guaranteed daily minimum?

How much do you earn on an average day/week/month?

Do you have to pay or rent equipment for your job?

How much have you invested in your equipment?

Do you have to pay for the maintenance costs of your equipment?

Do you see yourself as running a business?

Do you think you are paid fairly?

Do you earn enough money to cover your cost of living?

Can you do anything to increase your income from your courier work?

Do you have any other jobs?

4) Occupational hazards and health and safety concerns

Probes:

Have you ever been injured on the job? What happened?

What would happen if you were hurt at work?

Do you know anyone else who has been injured while working?

Do you have any health concerns working as a courier/messenger?

Do you have any safety concerns working as a courier/messenger?

Do you think your job is dangerous?

Is there anything you can do to make your job safer?

Is there anything else you want to tell me about your work?

5) CUPW Courier Organizing Campaign and TOBMA

Probes:

Are you a member of CUPW?

Why did you become a member of CUPW?

Do you think that unionizing is a good thing for couriers/messengers?

What role can a union play in your working life?

What sort of issues should the union be addressing? What should be prioritized?

What sorts of services does CUPW offer at the courier worker centre?

How has the union helped you personally?

Are you active in the courier organizing campaign? How active?

Has the union offered any training to advocate for yourself or others on the job?

What are your interactions with the staff of the local?

Has your employer reacted to the union campaign?

If courier firm is unionized:

Have your working conditions changed since unionizing?

Has your income improved?

For bike messengers:

Are you a member of TOBMA?

What services does TOBMA offer?

Has TOBMA helped you with any employment difficulties or problems?

Is there anything else you want to tell me about CUPW or TOBMA?

Appendix D

Interview Guide: CUPW Staff and Organizers

1) What is your position in CUPW and the courier organizing campaign?
2) Why is CUPW trying to organize couriers and messengers?
3) What are the goals of the organizing campaign?
4) How did the campaign start?
5) How is outreach conducted to attract new members?
6) Have any couriers/messengers been resistant to unionizing?
7) How active are members in the campaign?
8) Does CUPW offer members training so that they can advocate for themselves and other couriers/messengers?
9) What services does CUPW offer members and couriers/messengers?
10) Do you see this campaign being driven more so by the staff and the union or by the membership?
11) What sort of employment issues/problems have couriers/messengers brought to the union?
12) What has CUPW done to address these issues/problems?
13) What successes has CUPW had so far in the campaign?
14) What sort of strategies is CUPW using to organize couriers/messengers?
15) Has the campaign run into any problems or faced any legal obstacles?
16) What is the role of TOBMA in the campaign?
17) What is the relationship like between TOBMA and CUPW
18) How have the courier firms reacted to the campaign?
19) If you could start the campaign again is there anything you would do differently?
20) Is there anything else you want to tell me about the campaign?

Appendix E

Employment Status Questions

1. Do you decide which deliveries you'll make?

[ ] Yes [ ] No

2. Can you decline making a delivery?

[ ] Yes [ ] No

3. If you decline work, do you believe the courier firm would refuse you future work?

[ ] Yes [ ] No [ ] Don't Know

4. Do you decide the price of the delivery charged to the customer?

[ ] Yes [ ] No

5. Do you decide on how much you'll be paid per delivery?

[ ] Yes [ ] No

6. Does the courier firm you make deliveries for offer any services to customers besides courier/delivery services?

[ ] Yes [ ] No [ ] Don't Know

7. Do you advertise your services as being directly available to the general public?

[ ] Yes [ ] No

8. Do you have specified hours of work?

[ ] Yes [ ] No

9. Do you make deliveries for the courier firm on a continuous basis (e.g. daily)?

[ ] Yes [ ] No

10. Can the courier firm exercise disciplinary power up to and including termination in cases of insubordination, poor performance, etc.?

[ ] Yes [ ] No [ ] Don't Know

11. If you are unable to work, are you permitted to hire a replacement?

[ ] Yes [ ] No [ ] Don't Know

12. Are you permitted to hire assistants to help you make deliveries?

[ ] Yes [ ] No [ ] Don't Know

13. Are you permitted to make deliveries for other courier firms while working for your employer?

[ ] Yes [ ] No [ ] Don't Know

14. Are you paid on commission?

[ ] Yes [ ] No

15. Do you invoice consumers/clients directly for each delivery?

[ ] Yes [ ] No

16. Does the courier firm pay you a daily minimum?

[ ] Yes [ ] No

17. Are you paid on a regular schedule e.g., weekly, bimonthly, monthly?

[ ] Yes [ ] No

18. Does the courier firm deduct income tax, CPP, EI, and Worker's Compensation from your pay?

[ ] Yes [ ] No [ ] Don't Know

19. Do you provide the equipment (e.g. bicycle or automobile) to do your work?

[ ] Yes [ ] No

20. Does your employer reimburse you for expenses associated with your employment?

[ ] Yes [ ] No

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